Calendar No. 2664

84TH CONGRESS, 2d Session | SENATE | REPORT No. 2618

AUTHORIZING THE SECRETARY OF THE INTERIOR TO NEGOTIATE AND EXECUTE A CONTRACT WITH THE RIVERSIDE IRRIGATION DISTRICT, IDAHO, RELATING TO THE REHABILITATION OF THE DISTRICT'S WORKS

JULY 18 (legislative day, JULY 16), 1956.—Ordered to be printed

Mr. DWORSHAK, from the Committee on Interior and Insular Affairs, submitted the following

REPORT

[To accompany H. R. 9918]

The Committee on Interior and Insular Affairs, to whom was referred the bill (H. R. 9918) to authorize the Secretary of the Interior to negotiate and execute a contract with the Riverside Irrigation District, Idaho, relating to the rehabilitation of the district's works, and other matters, having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

PURPOSE AND EXPLANATION OF THE BILL

H. R. 9918 authorizes the Secretary of the Interior to negotiate and execute a contract with the Riverside Irrigation District, Idaho, that would have three objectives by providing:

1. Expenditure by the United States of not to exceed $30,000 to correct earthslide conditions in the district's Riverside Canal and repayment by the district of any funds so expended;

2. Repayment by the district without penalty of funds it has heretofore obligated itself to repay.

The district and the Department of the Interior have reached an agreement on the terms of the contract, after several years of negotiations in an effort to resolve differences between the district and the Government. The Riverside Irrigation District is a private corporation organized in 1893 to deliver water to privately owned lands lying below certain lands of the Boise Federal reclamation project. Problems of canal maintenance because of slides in its main canal have been attributed in large measure to seepage from irrigation of the higher lands of the Federal project. In 1926, the Congress appropriated funds to remove the slides from the canal after the district agreed to

repay the cost of the work performed by the United States. A total of $48,233 was expended by the Federal Government and by 1933 a total of $14,465 had been repaid. No further payments have been made since that time. The district has felt that it should have some recognition of the fact that irrigation by the Federal reclamation project has increased the hazards to their water supply system and for that reason have been reluctant to resume repayment. Recurring problems of landslides have been met by the district from its own resources.

The proposed contract, which H. R. 9918 would authorize, provides that the district will resume payment of the remaining obligations on account of the cost of the removal work performed by the United States in 1926. The district's obligation, however, for payment of the accrued penalty interest on delinquent installments under the 1926 contract would be canceled. In addition the contract will make available to the district rehabilitation and betterment funds on a reimbursable basis should future major slides occur.

On reviewing the representations by the Department to the House Committee on Interior and Insular Affairs, the committee concludes that the legislation is justified and represents a fair and equitable settlement of the differences between the United States and the Riverside Irrigation District.

REPORT OF THE DEPARTMENT OF THE INTERIOR

The report of the Department of the Interior recommending enactment of H. R. 9918 is as follows:

DEPARTMENT OF THE INTERIOR,
OFFICE OF THE SECRETARY,
Washington 25, D. C., June 28, 1956.

Hon. CLAIR ENGLE,
Chairman, Committee on Interior and Insular Affairs,
House of Representatives, Washington, D. C.

MY DEAR MR. ENGLE: A report has been requested from this Department on H. R. 9918, a bill to authorize the Secretary of the Interior to negotiate and execute a contract with the Riverside Irrigation District, Idaho, relating to the rehabilitation of the district's works, and other matters.

If enacted, this bill would authorize the Secretary of the Interior to negotiate and execute a contract with the Riverside Irrigation District providing for the expenditure by the Government of not more than $30,000 to correct or overcome slide conditions in the district's Riverside Canal, for repayment by the district of any sums so spent, and for payment by the district (past penalties being forgiven) of sums it has heretofore obligated itself to pay to the Government.

The Riverside Irrigation District, Ltd., is a private corporation which since about 1893 has been delivering irrigation water to privately developed lands below the lands of Wilder Bench of the Boise Federal reclamation project. The company has had problems of canal maintenance because of slides in its main canal. The company over the years has attributed much of its difficulty to the subsequent development of irrigation on the Wilder Bench lands initiated about 1911.

After several slides in the 1920's, the Congress by the act of July 3, 1926 (44 Stat. 841, 856), appropriated funds to remove the slides from the canal, and the company agreed to repay the cost of the work performed by the United States. This cost was $48,233. The company repaid $14,465 of this amount by 1933. Deferments were made in 1934, 1935, and the first half of 1936. No further payments have been made since that time. The landowners involved have felt that the company should have some recognition of the fact that irrigation on Wilder Bench has increased the hazards to their water-supply system and for that reason have been reluctant to resume repayment under the existing repayment contract. Over the years the company has continued to meet the slide problem from its own resources.

A proposed contract has been negotiated under which the company would resume making repayments under its contract of 1926. Before the contract can be executed on behalf of the United States, however, special legislation such as enactment of H. R. 9918 will be necessary. The proposed contract (1) reschedules for repayment the company's remaining obligation with regard to the cost of slide removal work performed by the United States in 1926, (2) cancels the company's obligation for payment of accrued penalty interest (computed at the rate of 10 percent per year) on delinquent installments under the 1926 contract, and (3) recognizes the availability to the company of rehabilitation and betterment funds not to exceed a total of $30,000 on a reimbursable basis should future major slides occur, and should the Congress make appropriations therefore.

The proposed contract provides for the company to repay the $33,768 balance of its rehabilitation obligation at the rate of $2,500 a nually, an amount slightly more than that of the installments under the present repayment contract, with the provision that, if the company does work found by the Secretary to be required to remove slides or reduce the hazard from slides of more than $1,500 in any one year, the payment for that year will be rescheduled. Under this arrangement, the full amount will be repaid within 14 years plus whatever additional number of years occur in which the company expends more than $1,500 toward slide work. Although a major slide occurred in the winter of 1951–52, it is unlikely that there will be many years in which this will occur, because the past work has progressively reduced the hazard. Over the years the continuing slide removal work being accomplished by the company has tended toward the permanent stabilization of the canal. The contract leaves for later determination pursuant to the Rehabilitation and Betterment Act of October 7, 1949 (63 Stat. 724), as amended, the manner in which any future rehabilitation and betterment expenditures will be repaid.

The company is extremely anxious to place its financial relationships with the United States on a current basis. The Bureau of Reclamation for a period of several years has attempted to work out a solution to this problem. We believe the proposed contract, which has been accepted by the company and which places the company on a current repayment basis and offers the company some measure of assurance of assistance in meeting major slides in the future, is reasonable in view of the circumstances.

We therefore recommend that H. R. 9918 be enacted.

The Bureau of the Budget has advised that there would be no objection to the submission of this report to your committee.

Sincerely yours,

FRED G. AANDAHL,
Assistant Secretary of the Interior.

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Calendar No. 2665

84TH CONGRESS, 2d Session | SENATE | REPORT No. 2619

QUIETING TITLE AND POSSESSION WITH RESPECT TO CERTAIN REAL PROPERTY IN THE STATE OF ALABAMA

JULY 18 (legislative day, JULY 16), 1956.—Ordered to be printed

Mr. BIBLE, from the Committee on Interior and Insular Affairs, submitted the following

REPORT

[To accompany H. R. 8474]

The Committee on Interior and Insular Affairs, to whom was referred the bill (H. R. 8474) to quiet title and possession with respect to certain real property in the State of Alabama, having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

Set forth below is the report of the Committee on Interior and Insular Affairs of the House of Representatives in which this committee concurs. Set forth also is the report received by this committee from the Department of the Interior relating to S. 2788, a measure introduced by Senator Sparkman which would accomplish the same objective as does H. R. 8474.

EXPLANATION OF THE BILL

If enacted, H. R. 8474, as amended, would quiet title and possession with respect to certain lands in the State of Alabama, as described in the bill, by conveying all right, title, and interest in such lands to the persons who would be the lawful owners thereof except for any claim the United States may have in the land.

The land described in H. R. 8474, introduced by Representative Jones of Alabama, comprises parts of the Thomas Wilson and Giles McNulty (McAnulty) Cherokee Indian Reserves which appear to have been conveyed by the United States over 137 years ago.

Giles McNulty (McAnulty) received a reserve of 640 acres fo land in Alabama under the eighth article of the treaty of July 8, 1817 (7 Stat. 156), subject to a reversionary clause.

The act of May 29, 1830 (6 Stat. 441), relinquished the reversionary interest of the United States in this and other Indian reserves in the States of Alabama. According to the favorable report of the Department of the Interior, "* * * it * * * appears that the United States has already divested itself of all right, title, and interest in the land embraced in the Giles McNulty (McAnulty) reserve."

The third article of the treaty of February 27, 1819 (7 Stat. 195), provided that a fee simple reservation of 640 acres "shall be made" for certain named persons, one of whom was Thomas Wilson. These reservations were made on the condition that the reservees notify, in writing, the agent for the Cherokee Nation within 6 months after the ratification of the treaty that it was their intention to continue to reside permanently on the land reserved. The records of the Department of the Interior do not show whether or not this condition was complied with. The 13th article of the treaty of December 29, 1835 (7 Stat. 484), confirmed all such reservations that had not theretofore been sold by the United States, where, in the opinion of the commissioners, the terms on which the reservations were made had been complied with as far as practicable. The records of the Department of the Interior do not show the "opinion of the commissioners."

No appropriation of Federal funds is authorized by this legislation.

The Committee on Interior and Insular Affairs recommends the enactment of H. R. 8474, as amended.

COMMITTEE NOTE.—Clause 3 of rule XIII of the Rules of the House of Representatives provides only for showing changes in existing law made by a bill *as introduced*. H. R. 8474 as amended by the committee would repeal certain restrictions on the alienation of certain land contained in the act of May 29, 1830. The committee, therefore, sets forth as a matter of information the act of May 29, 1830, as follows:

"ACT OF MAY 29, 1830 (6 STAT. 441)

"That all the right, title, and interest, which might accrue or revert to the United States, to the reservations of land now claimed and possessed by Conaleskee, commonly called Challenge, James Ore, and Giles McAnulty and his wife Alice, and William Wilson and his wife Peggy Wilson, under a treaty made and concluded between the United States and the Cherokee tribe of Indians, on the eighth day of July, one thousand eight hundred and seventeen; and all the right, title, and interest, which might accrue or revert to the United States, to reservations of land, now claimed and possessed by George Stiggins and Arthur Sizemore, under a treaty made and concluded between the United States and the Creek Indians, at Fort Jackson, on the ninth day of August, one thousand eight hundred and fourteen, all lying in the State of Alabama, be, and the same are hereby,

relinquished, and vested in the said reservees, and their heirs, respectively: *Provided*, That the said Conaleskee, commonly called Challenge, James Ore, Giles McAnulty, and William Wilson, George Stiggins, and Arthur Sizemore, with their respective families, shall remove to their respective tribes west of the Mississippi river, not included within any State or Territory; and that the government of the United States shall not be chargeable with the expense of their removal or transportation, or with any allowance of land to, or on account of either of them, or their respective families; *And provided, also*, That no conveyance or deed of the said lands, or any part of them, shall be valid or effectual, until every such conveyance or deed shall be submitted to one of the District Attorneys for the District of Alabama, for his approbation; and if, after inquiry into the facts and circumstances attending the contracts for the sale of any of the said lands, he shall be satisfied that such contracts are fair, and that the consideration paid, or agreed to be paid therefor, is adequate, he shall indorse his approbation on each conveyance and deed so approved; and, thereafter, the same [shall] be deemed valid and effectual."

DEPARTMENT OF THE INTERIOR,
OFFICE OF THE SECRETARY,
Washington 25, D. C., May 7, 1956.

Hon. JAMES E. MURRAY,
Chairman, Committee on Interior and Insular Affairs,
United States Senate, Washington 25, D. C.

MY DEAR SENATOR MURRAY: Your committee has requested a report on S. 2788, a bill to quiet title and possession with respect to certain real property in the State of Alabama.

We have no objection to the enactment of the bill.

The bill conveys all the right, title, and interest of the United States in certain land in Alabama to the persons who would be the lawful owners of the land except for the claim of the United States. The land described in the bill comprises parts of the Thomas Wilson and Giles McNulty (McAnulty) Cherokee Indian reserves.

Giles McNulty (McAnulty) received a reserve of 640 acres of land in Alabama under the eighth article of the treaty of July 8, 1817 (7 Stat. 156). He had a life estate in the reserve, with a fee simple reversion in his children, subject to dower for the widow, all subject to a right of reversion in the United States if the head of the family moved away from the land. The act of May 29, 1830 (6 Stat. 441), relinquished the reversionary interest of the United States in certain Indian reserves in the State of Alabama, one of which was the reserve of Giles McNulty, and vested the reversionary interest of the United States in the reservee and his heirs, provided he and his family removed to their tribe west of the Mississippi River, and provided no conveyance of the land shall be valid unless approved by one of the district attorneys for the district of Alabama. The two provisos are not in the form of conditions subsequent, and it therefore appears that the United States has already divested itself of all right, title, and interest in the land embraced in the Giles McNulty (McAnulty) reserve. The bill would therefore be more effective if it were revised to repeal the

restriction on conveyances that is contained in the 1830 act and to make all transfers of title after that date subject to the laws of Alabama.

With regard to the reserve of Thomas Wilson, the third article of the treaty of February 27, 1819 (7 Stat. 195), provided that a fee simple reservation of 640 acres "shall be made" for certain named persons, one of whom was Thomas Wilson. The reservations were made on condition that the reservees notify, in writing, the agent for the Cherokee Nation within 6 months after the ratification of the treaty that it was their intention to continue to reside permanently on the land reserved. It is not known whether or not this condition was ever complied with. However, the 13th article of the treaty of December 29, 1835 (7 Stat. 484), confirmed all such reservations that had not theretofore been sold by the United States, "where the terms on which the reservations were made in the opinion of the commissioners have been complied with as far as practicable." Our files do not show the "opinion of the commissioners."

We have no information regarding the facts that prompted the introduction of the bill.

The Bureau of the Budget has advised that there is no objection to the submission of this report to your committee.

Sincerely yours,

WESLEY A. D'EWART,
Assistant Secretary of the Interior.

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Calendar No. 2666

84TH CONGRESS, 2d Session | SENATE | REPORT No. 2620

AMENDING THE ACT OF AUGUST 31, 1954 (68 STAT. 1037), RELATING TO THE ACQUISITION OF NON-FEDERAL LAND WITHIN THE EXISTING BOUNDARIES OF ANY NATIONAL PARK

JULY 18 (legislative day, JULY 16), 1956.—Ordered to be printed

Mr. SCOTT, from the Committee on Interior and Insular Affairs, submitted the following

REPORT

[To accompany H. R. 9591]

The Committee on Interior and Insular Affairs, to whom was referred the bill (H. R. 9591) to amend the act of August 31, 1954 (68 Stat. 1037), relating to the acquisition of non-Federal land within existing boundaries of any national park, and for other purposes, having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

Set forth below is the report of the Committee on Interior and Insular Affairs of the House of Representatives in which this committee concurs.

PURPOSE OF H. R. 9591

If enacted, H. R. 9591, introduced by Representative Bonner, of North Carolina, would authorize the Secretary of the Interior to use not more than $250,000 of certain appropriated funds to match with donated funds in order to complete the acquisition of non-Federal lands within the Cape Hatteras national seashore recreational area in North Carolina.

EXPLANATION OF THE BILL

The Cape Hatteras national seashore recreational area consists of long, narrow sand spits known as the Outer Banks and contains 28,500 acres of land and water area of which 3,500 acres remain to be acquired.

The act of August 17, 1937 (50 Stat. 669), which authorized establishment of the Cape Hatteras national seashore recreational area, provided that the land for the area shall be

acquired only by public or private donation. This procedure has been followed in acquiring land for the area; the State of North Carolina donated $618,000 and approximately 10,000 acres of land and 2 Mellon Foundations, the Avalon and the Old Dominion Foundations, also donated $618,000 for the land-acquisition program.

Donated land-acquisition funds totaling $1,236,000 are said to have been exhausted due to the unexpected high cost of a key parcel of land forming the northern shore of Oregon Inlet. This tract of land, comprising approximately 400 acres, is barren and undeveloped; it is bordered on the east by the Atlantic Ocean, on the south by Oregon Inlet, and on the west by Pamlico Sound; it contains a landing for the ferry which crosses Oregon Inlet and the boat marina of a Park Service concessionaire. According to the witness heard from the Park Service, this tract of land was acquired by an individual for about $30,000 on the settlement of an estate only 6 or 7 years ago. About 3 years ago the Department of the Interior filed a declaration of taking on this tract of land and deposited $185,000 with the court as the Department's appraisal of the value of the land after consultation with the United States Geological Survey and with private industry. The owner asked for approximately $1,250,000; three commissioners appointed by the Federal court subsequently placed a value of $484,000 on the land and awarded $4,000 for another small tract; these awards, plus accumulative interest in the amount of $45,400, brings the total apparent cost to date to $533,400. The Attorney General of the United States has appealed the case to the judge of the court. Should the award be reduced as a result of the appeal, the use of appropriated funds which would be authorized by H. R. 9591 will be reduced by a like amount.

In view of the considerable donations already made by the State of North Carolina and by private foundations, the Department of the Interior is understandably reluctant to solicit for the donation of the additional funds needed to obtain some 3,100 acres of land and water areas required to complete and to provide for the continuity of the Cape Hatteras national seashore recreational area. The committee believes that the circumstances warrant the expenditure of Federal funds for the purpose.

The act of August 31, 1954 (68 Stat. 1037), authorizes annual appropriations not to exceed $500,000, to be equally matched by donated funds, for the acquisition of non-Federal lands in the national parks. If enacted, H. R. 9591 would amend the 1954 act so as to permit the use of not more than $250,000 of the appropriated funds for land acquisitions in the Cape Hatteras national seashore recreational area.

DEPARTMENTAL REPORT

The favorable reports of the Department of the Interior and the Bureau of the Budget are set forth following.

DEPARTMENT OF THE INTERIOR,
OFFICE OF THE SECRETARY,
Washington, D. C., May 4, 1956.

Hon. CLAIR ENGLE,
Chairman, Committee on Interior and Insular Affairs,
House of Representatives, Washington, D. C.

MY DEAR MR. ENGLE: Your committee has requested a report on H. R. 9591, to amend the act of August 31, 1954 (68 Stat. 1037), relating to the acquisition of non-Federal land within the existing boundaries of any national park, and for other purposes. The cited 1954 act authorizes the acquisition of non-Federal land within national parks, using, for that purpose, certain funds that are provided equally by donation and by appropriation. This bill would permit the use of funds so provided, and any other funds appropriated for land acquisition in areas of the national park system, for purposes of the Cape Hatteras national seashore recreational area, in the State of North Carolina.

We recommend that H. R. 9591 be enacted.

The act of August 17, 1937 (50 Stat. 669; 16 U. S. C., 1952 edition sec. 459), which authorized establishment of the Cape Hatteras national seashore recreational area, provided that the land for the area shall be acquired only by public or private donation. This procedure has been followed in acquiring land for the area; substantial funds have been provided by the State of North Carolina and by 2 private donors, with the result that of the total acreage of 28,500 acres in the recreational area, there remains to be acquired approximately 3,500 acres.

We estimated some time ago that the donations in hand as well as other commitments for donations would be adequate to acquire the remaining acreage. However, we now find that such donated funds probably will fall short of the needed amount. For this reason we consider the enactment of H. R. 9591 to be desirable.

The Bureau of the Budget has advised that there is no objection to the submission of this report to your committee.

Sincerely yours,

WESLEY A. D'EWART,
Assistant Secretary of the Interior.

EXECUTIVE OFFICE OF THE PRESIDENT,
BUREAU OF THE BUDGET,
Washington, D. C., April 30, 1956.

Hon. CLAIR ENGLE,
Chairman, Committee on Interior and Insular Affairs,
House of Representatives, Washington, D. C.

MY DEAR MR. CHAIRMAN: This will refer to your request for our views concerning H. R. 9591, to amend the act of August 31, 1954 (68 Stat. 1037), relating to the acquisition of non-Federal land within the existing boundaries of any national park, and for other purposes.

The act to be amended authorizes the acquisition of non-Federal land only within national-park boundaries. Its provisions do not apply to other areas included in the national park system.

It is our understanding that additional non-Federal land is needed to round out the area comprising the Cape Hatteras national seashore recreational area, and that donations presently in hand will fall short of the amount necessary to complete desired acquisitions.

Enactment of H. R. 9591, which we recommend, would extend the act of August 31, 1954, to the Cape Hatteras area.

Sincerely yours,

ROBERT E. MERRIAM,
Assistant to the Director.

CHANGES IN EXISTING LAW

In compliance with subsection (4) of rule XXIX of the Standing Rules of the Senate, changes in existing law made by the bill (H. R. 9591) as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italics, existing law in which no change is proposed is shown in roman):

(COMMITTEE NOTE.—Although the title of H. R. 9591 refers to amending the act of August 31, 1954 (68 Stat. 1037), the wording of the bill makes no specific change in the present law. For information, the act of August 31, 1954, is set forth below in its entirety):

AN ACT To facilitate the acquisition of non-Federal land within the existing boundaries of any National Park, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, in order to consolidate Federal land ownership within the existing boundaries of any National Park and to encourage the donation of funds for that purpose, the Secretary of the Interior is authorized to accept and to use in his discretion funds which may be donated subject to the condition that such donated funds are to be expended for purposes of this Act by the Secretary only if Federal funds in an amount equal to the amount of such donated funds are appropriated for the purposes of this Act. There are authorized to be appropriated such funds as may be necessary to match funds that may be donated for such purposes: *Provided,* That the amount which may be appropriated annually for purposes of this Act shall be limited to $500,000.

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84TH CONGRESS
2d Session
SENATE
REPORT
No. 2621

EAST-WEST TRADE

REPORT

OF THE

COMMITTEE ON GOVERNMENT OPERATIONS

MADE BY ITS

PERMANENT SUBCOMMITTEE ON INVESTIGATIONS

TOGETHER WITH MINORITY VIEWS

JULY 18 (legislative day, JULY 16), 1956.—Ordered to be printed

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CONTENTS

	Page
Introduction	1
Part I. Export control operations	3
Initiation of export controls	3
ECA provisions on exports banned to Communists	3
Formation of consultative group	3
COCOM and CHINCOM	4
International controls list	4
United States domestic control laws	4
United States export control policy	5
Positive list of the United States Export Control Act	5
Battle Act policy	5
Battle Act list	5
(ACEP) Advisory Committee on Export Policy	6
(EDAC) Economic Defense Advisory Committee	6
Joint Operating Committee	6
Task Groups and Strategic Controls Section	7
Part II. Decontrol of strategic items	8
Events leading to lifting restrictions on shipment of strategic materials to Communists	8
Chronology	8
Revisions of lists	10
Metalworking and machine tools	10
Horizontal boring, drilling, and milling machines	10
Precision boring machines	10
Vertical boring mills or turret lathes	11
External cylindrical grinding machines	11
Dynamic balancing machines	11
Surface grinding machines	11
Minerals and metals	12
Copper wire	12
Aluminum	13
Magnesium	14
Asbestos	14
Metal alloys	14
Nickel alloys	14
Beryllium	15
Zirconium	15
Cobalt	15
Industrial equipment	15
Induction furnaces	15
Superrefractories	15
Railroad equipment and rolling stock	15
Electric power equipment	16
Electric generators (60,000-kilowatt generators)	17
Small generators	17
Turbines	17
Diesel engines	17
Transformers	18
Rectifiers	18
Electronic equipment	18
Crystal diodes	18
Subminiature tubes	18
Electronic vacuum tubes	19
Radio transmitters	19
AM-FM and TV transmitters	19

Part II. Decontrol of strategic items—Continued
Electronic equipment—Continued Page
Single-channel transmitters 19
Carrier frequency telephone terminal and associated telegraph terminal equipment 19
Test equipment 19
Part III. United States review of the lists 20
Who determined what was strategic 21
Part IV. Trade versus aid 22
Increase in trade 22
Soviet moves for increased trade 23
Realities of Russian trade 24
Comparison of size of the United States military and economic aid to NATO nations with size of NATO trade with Communist Europe 26
Part V. Suppression of information and censorship by Government agencies 27
Government experts barred from revealing facts 28
Executive agencies' legal citations 29
Constitutional separation of powers is subject to checks and balances 29
The President's letter of May 17, 1954 30
Inconsistency in the executive branches' policy in refusing to give information while giving favored private citizens similar information 32
Right of public and Congress to be informed 33
Official position taken by executive departments on disclosure of information 41
Suppression of JOC documents 43
Suppression of information of international lists and negotiations 44
The Communists know what strategic materials they can obtain—security classification acts only to keep Congress and American public in dark 45
Suppression of Battle Act list 45
Conclusions 46
Recommendations 48
Minority views of Senators Karl E. Mundt and George H. Bender 50

84TH CONGRESS } SENATE { REPORT
2d Session } { No. 2621

EAST-WEST TRADE

JULY 18 (legislative day, JULY 16), 1956.—Ordered to be printed

Mr. MCCLELLAN, from the Committee on Government Operations, submitted the following

REPORT

together with

MINORITY VIEWS

MADE BY ITS PERMANENT SUBCOMMITTEE ON INVESTIGATIONS

INTRODUCTION

Negotiations in the spring and summer of 1954 between the United States and 14 other nations resulted in the relaxation and revision of restrictions previously imposed on shipments of strategic goods to the Soviet Union. Approximately 200 out of 450 items of strategic significance which had been restricted from shipment to the Communist nations were downgraded or otherwise decontrolled at this conference. It was this relaxation of the embargo over trade with the European Communist nations that was the subject matter of this subcommittee's investigation and hearings.

We learned that there were items removed from the embargo list in the seven major categories:

(1) Heavy metal working machinery (machine tools).
(2) Electric power generating equipment.
(3) Minerals, metals.
(4) Transportation equipment.
(5) General industrial equipment.
(6) Electronic equipment.
(7) Petroleum products and equipment.

The subcommittee sought to find out why and how this relaxation in the embargo took place and who in the United States Government was responsible for it.

The subcommittee is interested in measures to prevent exports of strategic materials from this and any allied nation which would build up the war potential of a highly dangerous enemy. During the hearings the subcommittee sought to explore the loopholes, the weaknesses in the laws of this Nation, the failure or lack of enforcement of existing laws, the method of administration and its efficiency,

both on a policy and operational level, and to determine whether the best interests of the United States are being served by those administering the laws.

The Communist nations are expending great effort to build up their war-making potential. In meeting this objective, it is necessary for the Soviet Union to import certain indispensable but scarce strategic materials such as machine tools, copper, high-heat alloys, electronic equipment and electrical generating equipment. Undoubtedly, trade in these types of strategic goods is being used also for the secondary purpose of creating a schism in the ranks of the NATO nations by inducing European industrialists to press their individual governments for permission to ship embargoed materials to the bloc in return for lucrative contracts.

For many years it was the concept in this country that Soviet Russia was a backward industrial nation, devoid of skilled technicians and engineers and populated by a semi-illiterate people of low productive capacity. However, the government, operating as a total dictatorship, able to commandeer materials and labor, utilize slave labor, and maintain a suppressed population in a low standard of living, has been able to develop a heavy industry and war material production capacity.

The Soviet Union has become a major modern industrial state. It has trained large classes of technicians and engineers on a mass basis. Its graduate classes of engineers far outnumber those of the United States today. It has the hydrogen and atomic weapons, and its missile production is progressing at a rate that gives us serious concern. The Soviet police state has created a powerful military production force with which we must reckon.

Today the Communist Navy, with the largest submarine force in the world, is second only to the United States. Its army is the largest in the world. Its airpower ranks superior to the United States in numbers and, in some instances, it may in quality and performance.

With this great military strength the Soviet Union nevertheless has certain deficiencies in her natural resources and marked weaknesses in her ability to produce and manufacture certain types of items. The subcommittee sought to inquire into the incongruity of our allies on one hand attempting to combat communism, while at the same time assisting the Soviet Union by shipping her these highly needed strategic goods.

One of the disturbing facts which confronted the subcommittee was the information that the downgreding and decontrol of approximately 150 of the items were recommended by personnel in our own Government agencies on the so-called Joint Operating Committee (JOC), contrary to the advice of the experts and technicians of the Defense Department and in many instances against the advice of experts in their own agencies. This action took place prior to the time we entered into active negotiations with allied nations on the question of relaxation of international restrictions on exports of strategic materials to the Communist nations. It was shown that expert and technical opinion was in a large part disregarded when these actions were taken.

Another disturbing fact was the aura of secrecy which cloaked the so-called exercise of relaxation and revision of the list of strategic items. The Government departments and agencies involved in these transactions have endeavored to suppress and conceal the facts and have

refused to permit this subcommittee to examine pertinent documents. These agencies have directed their employees to refuse to testify concerning these matters. A cloak of secrecy has prevented the subcommittee from ascertaining the whole truth. The question thus must be left at least partially unanswered as to why this country agreed to the shipment of strategic materials of the highest importance to a potential enemy by our allied nations and the part the United States Government played in such concurrence. In addition, we have not even been able to learn the details of methods of the relaxation of controls as agreed to by our Government. Despite these obstructions, the subcommittee has learned sufficient facts in public hearings to come to certain definite conclusions which will be discussed later herein.

The investigation now assumes particular significance, in the light of recent efforts by our allies to persuade us to agree to the relaxation of embargo on shipments to Communist China. Great Britain and France are presently requesting that the controls over strategic trade with China be relaxed to follow the pattern set in 1954. Arguments have been presented that China can get the materials from one of the Russian satellites, so why not deal directly with the Chinese Communists (Gatskell, NBC television program May 20, 1956). This argument serves only to emphasize the results of the decontrol by COCOM on August 25, 1954, on shipments to Communist nations in Europe. The British Government has publicly announced (New York Times, May 17, 1956) she plans exceptions to the embargo on strategic materials shippped to Communist China, agreed to by the China Trade Committee in Paris. It remains to be seen whether the Battle Act provisions will be invoked against this action.

PART I. EXPORT CONTROLS OPERATION

INITIATION OF EXPORT CONTROLS

Following World War II it became apparent that the Soviet Union was using economic and political pressures to secure control of Eastern Europe. After the Communist coup in Czechoslovakia in 1948 the United States initiated for itself a security export control program to prevent shipment of strategic materials to the Soviet bloc (first Battle Act report, p. 6).

ECA PROVISIONS ON EXPORTS BANNED TO THE COMMUNISTS

The earliest efforts by the United States to obtain cooperation from western European nations was the enactment of section 17d of the Economic Cooperation Act of 1948, which was designed to prevent, insofar as practicable, the shipment to the Soviet bloc of ECA financed products which were banned for export to the bloc by the United States itself (first Battle Act report, p. 6).

FORMATION OF CONSULTATIVE GROUP

In 1948–49 the western European powers, Canada, and the United States, engaged in informal discussions for cooperative action in the field of security trade controls (third Battle Act report, p. 20). This led to the formation of a multilateral consultative group, known as

the CG, of some 15 nations, mostly of the NATO group, which included the following countries (p. 285 [1]):

Belgium	Luxembourg
Canada	Norway
Denmark	Portugal
France	The Netherlands
Federal Republic of Germany	Turkey
Italy	United Kingdom
Japan	United States
Greece	

COCOM AND CHINCOM

The Consultative Group started to function in January 1950. A permanent secretariat was established in Paris to service its operations. For its day-to-day operations, a working level Coordinating Committee, commonly known as the COCOM, was organized. Later, in September 1952, the China Committee, known as CHINCOM, was formed to handle export control problems specially pertaining to the Far East (third Battle Act report, p. 21).

INTERNATIONAL CONTROLS LIST

COCOM and CHINCOM established a list of strategic materials, which is a proscribed list of materials to be shipped to the Soviet bloc nations and Communist China. This list has several classes, such as embargo items and quantitative control items, and items kept under surveillance. Up to the present time all strategic materials are embargoed to China. However, in a recent visit of Prime Minister Anthony Eden to the United States, January 30 to February 3, 1956, Great Britain asked that controls over shipments to Communist China be relaxed and the President of the United States has indicated that this proposal will be studied. Since then Great Britain has indicated that it intends to ship certain strategic materials to the Communist Chinese despite the embargo (New York Times, May 17, 1956).

UNITED STATES DOMESTIC CONTROL LAWS

The United States domestic controls are administered under several sets of laws including the following:

(1) The Export Control Act of 1949, amended, which is administered by the Department of Commerce.

(2) Trading with the Enemy Act, administered by the Treasury Department.

(3) The Munitions Control Act, administered by the Department of State.

(4) The Atomic Energy Act, administered by the Atomic Energy Commission.

(5) The Mutual Defense Assistance Control Act of 1951, commonly known as the Battle Act, administered by a Battle Act Administrator appointed by the President of the United States. (During the period 1953–55, the Battle Act Administrator was

[1] All page and exhibit references refer to the subcommittee hearings unless otherwise noted.

Mr. Harold E. Stassen and his Deputy was Admiral Walter S. DeLany.)

The subcommittee's investigation and study is concerned principally with the policies and operations of the Mutual Defense Assistance Control Act of 1951 (Battle Act) and the Export Control Act of 1949.

UNITED STATES EXPORT CONTROL POLICY

In the enactment of the Export Control Act, Congress announced that it was the policy of the United States that the criterion for the control over exports should be their degree of significance to the national security (sec. 2, Export Control Act of 1948, Public Law 62, 83d Cong.).

POSITIVE LIST OF THE UNITED STATES EXPORT CONTROL ACT

Domestic controls over exports of strategic materials were exercised through a list known as the positive list. For all intents and purposes, the United States has practically embargoed the shipment of any goods of strategic significance to the Communist nations and has not granted license applications for such shipments.

BATTLE ACT POLICY

The Mutual Defense Assistance Control Act of 1951 calls for the termination of aid to nations which intentionally ship items of primary strategic significance to the Communist nations, and Congress enacting the law declared it:

> * * * to be the policy of the United States to apply an embargo on the shipment of arms, ammunition, and implements of war, atomic energy materials, petroleum, transportation materials of strategic value, and items of primary strategic significance used in the production of arms, ammunition, and implements of war to any nation or combination of nations threatening the security of the United States, including the Union of Soviet Socialist Republics and all countries under its domination, in order to (1) increase the national strength of the United States and of the cooperating nations; (2) impede the ability of nations threatening the security of the United States to conduct military operations; and (3) to assist the people of the nations under the domination of foreign aggressors to reestablish their freedom.
>
> It is further declared to be the policy of the United States that *no military, economic, or financial assistance shall be supplied to any nation unless it applies an embargo on such shipments to any nation or combination of nations threatening the security of the United States, including the Union of Soviet Socialist Republics and all countries under its domination* (Public Law 213, 82d Cong.) [Emphasis supplied.]

THE BATTLE ACT LIST

The Battle Act list (Mutual Defense Assistance Control Act of 1951) was finally furnished to the subcommittee on a classified basis

and received a year and a half after requested by the subcommittee on such basis under protest. It consists of title I, category A and B, and title II.

Title I requires the Administrator to determine and/or to redetermine which item should be embargoed.

Category A lists items of war materials for which no exceptions are possible under the termination of aid clause.

Category B lists embargoed items for which the President may grant exceptions under the termination of aid clause in unusual circumstances.

Title II list requires the United States to negotiate with any country receiving military, economic, or financial assistance for the control of items not embargoed under title I but which in the judgment of the Administrator should nevertheless be controlled.

(ACEP) ADVISORY COMMITTEE ON EXPORT POLICY

Under section 4 of the Export Control Act of 1948, the Secretary of Commerce was directed to seek advice and information from other executive departments and agencies in determining which materials exported from the United States proper were to be controlled. For this purpose an interagency committee was appointed which was called the Advisory Committee on Export Policy. It was commonly known as ACEP and was chaired by the Assistant Secretary of Commerce for International Affairs. This Committee consisted of representatives from the Departments of Defense, State, Agriculture, Interior, Treasury, and Commerce, as well as representatives from the Atomic Energy Commission, Central Intelligence Agency, Foreign Operations Administration (now International Cooperation Administration), and included separate representation from the Battle Act Administrator (29th Quarterly Report on Export Control by the Secretary of Commerce, p. 18). The minutes of the meetings were refused to the subcommittee.

(EDAC) ECONOMIC DEFENSE ADVISORY COMMITTEE

In the field of export controls the Battle Act Administrator obtains advice and information through the medium of the Economic Defense Advisory Committee, chaired by the Deputy Administrator of the Mutual Defense Assistance Control Act of 1951, the so-called Battle Act. This Committee consists of representatives of substantially the same Government departments and agencies that are members of ACEP (29th Quarterly Report on Export Control by the Secretary of Commerce, p. 18). The minutes of the meetings were refused to the subcommittee.

JOINT OPERATING COMMITTEE

Because of the common problems and similarity of issues, and in order to better coordinate the activities of ACEP and EDAC, the so-called Joint Operating Committee, succeeding a number of earlier groups, was established early in 1954. It handled matters affecting both the domestic and international controls system, particularly in regard to the listing of items of strategic materials to be controlled.

The Joint Operating Committee is therefore a subcommittee of both

ACEP and EDAC. Its Chairman in 1954 was Mr. Herbert Blackman of the Department of Commerce, who had been in government since 1940. The function and authority of JOC has been set forth in the 29th Quarterly Report of December 30, 1954, on Export Controls by the Secretary of Commerce, on page 19, as follows:

> Specifically, the Joint Operating Committee reviews and recommends strategic ratings by which commodities and technical data are classified for security export control purposes; adds to or deletes from the list of items under export control; makes changes in security export control policies and programs affecting particular countries or country areas (e. g., Indochina, Communist China, Hong Kong, etc.); and, as a subcommittee of the Economic Defense Advisory Committee, reviews and recommends positions to be advocated by the United States in international discussions on security export controls as they concern commodities and related problems.

The Secretary of Commerce further stated:

> When it is not possible to reconcile differences in views on United States controls at the Joint Operating Committee or Operating Committee levels, the issues in question are referred to the Advisory Committee on Export Policy. In the case of problems in the international control field, the issues are referred to the Economic Defense Advisory Committee. Should any member agency of the Advisory Committee on Export Policy disagree with the decision of the Chairman, it may carry its appeal direct to the Secretary of Commerce—a relatively rare occurrence.
>
> It should be emphasized that actions of the Advisory Committee on Export Policy are based on major policies and guidelines established by the National Security Council or the Cabinet. Whenever an important problem arises on which established United States policy is unclear, or whenever a modification of established policy appears warranted, the problem may be presented for review by the National Security Council. For example, the comprehensive reevaluation of the United States security export controls recently carried out by the Joint Operating Committee was based upon policies and programs laid down earlier by the National Security Council.

All minutes and pertinent documents pertaining to the recommendations for the downgrading of strategic materials by this subcommittee and its chairman, Herbert Blackman, were refused to the subcommittee.

TASK GROUPS AND STRATEGIC CONTROLS SECTION

To assist the Joint Operating Committee, experts from the Defense Department and other Government agencies are formed into task groups to advise on particular groups of items, such as machine tools, chemicals, petroleum, electronics, metals, etc. These task group experts analyze each item for its strategic value, its uses and functions, technological features and advanced design, and the part it would

play in building up the warmaking potential of the Communists if such items were available to them. The experts' analysis and evaluation of each such item was usually embodied in a task group report or fact sheet (p. 10).

The experts' reports or fact sheets were channeled to JOC through a section in the Department of Commerce known as the Strategic Controls Section, which in early 1954 was headed by Mr. J. Mishell George, a Government employee for 15 years. Mr. George was later loaned to the Department of State to act as a United States negotiator at the COCOM conference held in Paris between April–July 1954. Mr. George, in his testimony on March 7, 1956 (p. 299), admitted that he rewrote the technicians' reports and that he knew this was objected to and resented by the Defense Department experts, but it is his recollection that these changes were checked back to the technicians involved. All documents pertaining to the actions of Mr. George and others on the task groups and Strategic Controls Section were refused to the subcommittee in public or executive session.

PART II. DECONTROL OF STRATEGIC ITEMS

EVENTS LEADING TO LIFTING RESTRICTIONS ON SHIPMENT OF STRATEGIC MATERIALS TO THE COMMUNISTS

In 1953–54 the Soviet bloc started to use trade as a political-economic weapon. The postwar scarcities had vanished, production was high, and sales were more competitive. Countries such as Great Britain, France, West Germany, Holland, Belgium, Norway, Sweden, and others were looking for new outlets to market their products.

The Soviet bloc, taking advantage of this situation, started a drive using trade as an economic and political weapon aimed at splitting the Atlantic Alliance and breaking down the embargo. In January 1954 trade missions from England and other nations were invited to the U. S. S. R. She dangled large, attractive, lucrative trade orders before the business people of these nations. This pressure led to eventual relaxation of controls. A chronology of these events is herein set forth.

CHRONOLOGY

December 1953: The National Security Council directed that a review be made of East/West trade-control items.

January 26, 1954: British trade missions were invited and went to Russia with a view of negotiating trade contracts.

February 25, 1954: Prime Minister Winston Churchill made speeches urging relaxations of export controls on trade with Soviet.

March 5, 1954: President Eisenhower excused Battle Act violations (sec. 103B) by France, Italy, Norway, United Kingdom on small embargo shipments to U. S. S. R., Poland, Czechoslovakia. Second tanker delivered by Denmark to U. S. S. R. and this also was excused by the President.

March 1954: United Kingdom, after Churchill speech, informed the United States more in detail concerning scope of the "substantial relaxation" it had in mind on our export controls. United States proposed review of the export controls by 15-nation group. Area of disagreement arose primarily on equipment and raw materials

which were not used primarily in the manufacturing of munitions, but which still had an indirect and potential impact on military production and in which the Soviet bloc has a serious deficiency. United States emphasis was on security. United Kingdom emphasis was on the amount of trade they were losing by controls.

March 22, 1954: Debate in House of Commons criticized failure to relax trade restrictions.

March 29, 30, 1954: Tripartite high-level conference in London between United Kingdom, United States, France, attended by Harold Stassen, Peter Thorneycroft, President of the Board of Trade, and Maurice Shumann of France. It was agreed that existing controls in effect on China and Korea should not be disturbed. They announced a "wide area of agreement" on the general outlines of a program of revision and came to a general understanding on criteria. Stassen announced agreements were in harmony with the Battle Act.

March 30, 1954: Thorneycroft praised the terms of the agreement in the House of Commons.

April 13, 1954: The consultative group of representatives from the 15 nations had a high level meeting in Paris—in secret session. (It should be noted that up until 1953 even the names of the COCOM Committee countries had been kept secret, etc.) The consultative group instructed the Coordinating Committee (COCOM) to make a comprehensive review of the list of all goods on the embargo, quantitative control and surveillance lists with the aim to shorten the lists.

April 27 to June 17, 1954: COCOM conferences were held in Paris on the list revisions.

June 24 to June 29, 1954: Prime Minister Churchill and Secretary Eden were in Washington discussing world problems and the COCOM changes with the Secretary of State and the President.

July 3, 1954: Thorneycroft came to Washington and conferred with Stassen.

July 13, 1954: Thorneycroft made a report to the House of Commons on the list revisions.

July 19, 20, and 21, 1954: COCOM again met in Paris and it was agreed that the lists were to be put into effect on August 16, 1954.

August 16, 1954: The revision of the international list was put into effect. (Controls and changes made on the international list were implemented in the national controls systems of the participating countries.)

August 25, 1954: Stassen changed Battle Act to conform with international list agreed to in Paris.

August 26, 1954: Revisions of United States export control list.

October 16, 1954: Official British Board of Trade lists virtually identical to the international lists were published and made available to the public for 1 shilling.

November 30, 1954: Senator McCarthy, chairman of the Senate Investigations Subcommittee, made a request of Hon. Harold E. Stassen, Director, FOA, for the revision on the security export control list and the revised Battle Act list. This information was refused to the subcommittee.

January 28, 1956: The Battle Act list was furnished the subcommittee only on a classified basis by Mr. John Hollister, ICA Administrator.

REVISIONS OF LISTS

The items which were decontrolled at COCOM in August 1954 numbered approximately 200. Some of these are categories which contained numerous separate items. Attached and made part of the record of the hearings was a list of items published by the British Board of Trade in October 1954 (exhibit 14) which contained all of the revisions of the international list announced on August 16, 1954 (p. 61). It will be too voluminous to attempt to list each and every item which was deleted or otherwise decontrolled so that these items could be shipped to the Soviet bloc. However, a few of the more classic cases of such decontrol will be listed herein to illustrate the types of strategic materials which have been permitted to be shipped to the Communist bloc.

METAL WORKING AND MACHINE TOOLS

Horizontal boring, drilling, and milling machines

This machine has been characterized as one of the "most important machines on the list," costing between $200,000 and $500,000 per unit. This item was downgraded and permitted to be shipped to the Communist bloc. The strategic importance of this item stems from the fact that it is used primarily for manufacturing of marine turbine parts, heavy ordnance parts, locomotive frames, ship transmission parts, large diesel engines and components, heavy dies for the world's largest aircraft forging presses, machine-tool components, elevator parts for such ships as the *Forrestal* class, and also catapult parts for ships (p. 24), as well as tanks, artillery weapons, and aircraft (p. 59, expert testimony of Mr. John Williams, chief of production, Equipment Branch, Office of the Secretary of Defense, Supply and Logistics).

A foremost tool expert, Mr. Ralph Baldenhofer of the Thompson Grinder Co., formerly Director of the Metal Working Equipment Division of the Business and Defense Services Administration, Department of Commerce, and a consultant to the Assistant Secretary of Navy on machine tool matters, and an executive of one of the principal machine tool companies in the country, stated in regard to this tool (p. 25):

> It is impossible to build a defense-supporting program without machines of such a caliber.

He further stated:

> I believe that records will show that the progress of our past two wars was directly connected to the machine-tool potential * * *

He further testified that he strongly protested to the Joint Operating Committee against the decontrol of this and other types of machine tools (p. 29). He testified that the Joint Operating Committee did not pay proper attention to experts' recommendations and opinions (p. 47).

Precision boring machines

The strategic uses are in the manufacture of radar-control mechanisms, jet engine fuel pumps, guided missile components, and fire-control mechanisms (p. 32).

In relation to this machine Mr. Baldenhofer pointed out the inanity of this program which retained jig boring machines on the strategic control list but released the more modern precision boring machines which have much higher strategic value. In this connection, Mr. Baldenhofter (p. 46) pointed out that newer modern lathes were decontrolled, whereas older types of lathes were still controlled.

Vertical boring mills or turret lathes

Formerly this item had been embargoed on sizes over 72 inches. Subsequent to August 26, 1954, when the list was revised, this item was decontrolled so that sizes up to 96 inches could be shipped to the Communits (p. 35). The strategic uses of these machines are in the production of jet engine frames, guided missiles, and marine gears for turbines and turbine parts. Machines of the size of up to 96 inches can make practically any type of airplane armament and perform 90 percent of machine shop work required of vertical boring mills or lathes (p. 35, expert testimony of Mr. Ralph Baldenhofer).

External cylindrical grinding machines

This item is essential and extremely important as supporting equipment for the rolling mill industry, for the grinding and maintenance of rolling mill rolls. Rolling mills in turn are used in making sheet metal, such as aluminum sheets used on the wings of airplanes, fuselage, etc. Machines with cambering devices are restricted from sales to the Russians. The experts testified that the machines without a cambering device can be sold and exported to the Russians, but that this device can easily be installed, after delivery (p. 38, expert testimony of Mr. Ralph Baldenhofer).

Dynamic balancing machines

These items were taken off the export control list. It was testified that they have a very definite strategic value in that these machines served the purpose of balancing a rotating member of a unit, such as an electric motor or the rotating unit of a turbine or guided missile or gyro. They usually revolve at high speeds, in terms of thousands of revolutions per minute. If those rotating members are not very accurately balanced, the accuracy of control will be disturbed and sometimes cause the machine in which they are installed to disintegrate. It was also pointed out that, if the motor runs out of balance in the guided missile, the missile will be thrown off its course (p. 42, 43). This machine, therefore, is absolutely essential in the manufacture of guided missile engines, jet engines, gyros, and radar control diesel engine crankshafts (p. 43, expert testimony of Mr. Ralph Baldenhofer).

Surface grinding machines

These were decontrolled up to the size of 24 inches. The experts testified there were comparatively few operations which required a larger size machine in the manufacture of war materials. The strategic uses of this machine are as supporting equipment in toolrooms, for grinding dies, etc. They are essential for producing jet engine parts, guided missiles, radar gyro parts, diesel engines, fuel pumps, and numerous other strategic components (p. 44 expert testimony of Mr. Ralph Baldenhofer).

In relation to machine tools generally, Mr. Baldenhofer testified that the Soviets were interested in obtaining prototypes of the latest

developments of metalworking machines for the purpose of copying and duplicating them (p. 44). Mr. Baldenhofer also testified:

> It would be much better to give them the planes, the ammunition, yes, even give them the guided missiles. Those things will come back to us once. But these machine tools will get to the Soviet bloc and they will be making or they can make war materials on those machines from here on.

A Defense Department expert on machine tools, Mr. John H. Williams, testified that he had been assigned as the Defense Department expert on machine tools to advise on the strategic uses of these tools. He helped analyze and describe some 20 types of machines (p. 58) and set forth their uses in so-called Fact Sheets (p. 57), which were prepared by the experts and technicians. These Fact Sheets were then forwarded to the Joint Operating Committee. Mr. Williams testified that machine tools generally were indispensable to a war economy (pp. 58–59). He pointed out the advantage of the Soviet Union in receiving machine tools was that it would facilitate the concentration on manpower, manufacturing plants, and other facilities on other phases of war efforts and thus reduce the time period when they can overtake the United States in the development of armaments (pp. 61–62). Mr. Williams was prevented from making a full disclosure of the Defense Department position in relation to the decontrol at the Joint Operating Committee level or the international level (pp. 66–67, 71). However, he supported the testimony given by Mr. Baldenhofer on the strategic value of various of the machine tools which were removed or downgraded on the control list.

MINERALS AND METALS

Copper wire

It was testified that one of the most strategic items of modern-day warfare is copper. Its strategic importance in electrical transmissions, communication, and generation of power is common knowledge. Miles of copper wire are used in each of the modern bombing planes (p. 123, expert testimony of Mr. George Holderer, staff engineer, Subcommittee on Minerals, Materials, and Fuels of the Senate Interior and Insular Affairs Committee). There is hardly a weapon from the smallest item, such as a cartridge case, to the largest aircraft carrier that does not require copper. Statistics furnished by the Department of Commerce from public records were translated from a dollar volume and projected into terms of Weight for the years of 1954 and 1955 and early 1956, during the period when controls were relaxed. These statistics show that approximately 254,166,000 pounds of copper wire and products had been shipped to the Soviet bloc since decontrol (p. 80). The five largest exporting countries of copper wire products to the Soviet bloc, during the years 1954, 1955, and 1956, were as follows (p. 81):

Country:	*Pounds*
Great Britain [1]	72, 985, 000
West Germany	56, 926, 000
Finland	45, 546, 000
Belgium-Luxembourg	33, 566, 000
Japan	23, 616, 000

[1] The official British Board of Trade figures show that actually over 74 million pounds of copper were exported by Great Britain to the Soviet bloc during this period of time (p. 91).

The record also shows that during the same period of time, because of shortages in the industrial field, the United States Government was forced to divert from its stockpile and other purchase programs large quantities of copper to the United States industry. During the period of time when our allies were sending over 250 million pounds of copper to the Soviet bloc, the United States had to divert from its stockpile 150 million pounds of copper.

The record also shows that the best estimates of Soviet production of copper is 10 percent of the world production, whereas the United States produces approximately 30 percent of the world production. In times of peace the United States is a net importer of copper and utilizes 50 percent more than its productive capacity, which is estimated at approximately 1 million tons a year. In times of war the need of copper is vastly increased. As a result, the United States has been compelled to stockpile an enormous amount of copper to meet such eventuality. Competent strategists and specialists in logistics have estimated that the war mobilization base of the Communists will be comparable to the United States in time of war. The Russian production of only 350,000 to 400,000 tons of copper per year will create a tremendous shortage problem to the Communists. The shipment of copper wire, therefore, assumes tremendous significance from a strategic point of view. The reasons for relaxation of such an important and scarce strategic item are incomprehensible. Not the least puzzling are the misleading and untrue statements contained in the Fifth Battle Act Report to Congress, which stated that "copper and nickel remained under embargo." (See Fifth Battle Act Report, pp. 21 and 44.) This statement was not corrected until the Seventh Battle Act Report was issued after this subcommittee had initiated this investigation and indicated to personnel of the International Cooperation Administration and the State Department that the subcommittee staff was aware that copper was not in fact embargoed.

Aluminum

Certain hard alloys of aluminum are embargoed from going to the Communist bloc. However, the testimony shows that aluminum and soft alloys of aluminum can and are exported by the NATO nations to the Communist bloc as a result of the relaxation of controls at the COCO conferences in 1954 (p. 342). An expert, Arnold L. Rustay, director of research for Wyman Gordon Co. testified that the embargo on hard alloys was ineffectual and purposeless because the soft alloys can be remelted and additives easily added to make aluminum and soft alloy aluminum into a hard alloy. The strategic uses of aluminum and its alloys are well known. It is one of the most essential metals in modern day warfare. It is essential in the manufacture of all types of modern war plants, missiles, and practically every other type of armament. Dr. Timothy May, a Defense Department expert attached to the Materials Branch of the Requirements Review and Analysis Division, Office of the Assistant Secretary of Defense for Supply and Logistics, testified (p. 96):

> Well, aluminum is one of the most, if not the most, important metal as far as military usage is concerned. It is used principally in aircraft construction. It is also used in ammunition programs and also in weapons programs, as well as the missiles, tanks, and ships programs.

An additional factor making the sale of aluminum valuable to the Soviet Union is that the manufacture of aluminum requires tremendous amounts of electrical generating power. The Soviet Union has a major shortage in that area. The testimony shows that it requires 10,000 watt-hours to manufacture 1 pound of aluminum and that the aluminum industry uses more electrical power than any other metal industry (p. 102). The importation of aluminum by the Soviet bloc relieves the demand on Communist power facilities, which can be diverted to other types of war production and increase the military potential of the Communists. Congress was given the erroneous information in the Fifth Battle CA Report that aluminum was under embargo (Fifth Battle Act Report, p. 44).

Magnesium

Like the other minerals and metals, magnesium has been decontrolled. Its strategic importance lies in the fact that it is a lightweight metal used in aircraft production where light weight and high strength characteristics are required (testimony of Dr. Timothy May, Defense Department expert, p. 105). The manufacture of magnesium like aluminum, requires a high output of power. Each pound of magnesium delivered to the Communists releases large amounts of electrical generating power to be used in other war production. Congress was given the misleading information on the Fifth Battle Act Report that magnesium was under embargo (Fifth Battle Act Report, p. 44).

Asbestos

Asbestos was decontrolled. It has many strategic uses including certain types with low iron content for use in cable covers on battleships. Other types are used as thermo insulators in gas-mask filters, fire-fighting uniforms, airplane bulkhead insulated against fire hazards, and other manifold strategic uses (p. 106, testimony of Dr. Timothy May, Defense Department expert).

METAL ALLOYS

Nickel alloys

Nickel alloys containing up to 30 percent nickel were decontrolled. The most widely used strategic alloys are 18/8 or 18 percent nickel and 8 percent chromium to make stainless steel. Nickel is highly strategic (p. 120, expert testimony of Mr. George Holderer). It is a metal which because of its high-heat resistance, strength, and hardness, has characteristics essential in the manufacture of modern supersonic planes and in guided missiles where high functional heat is generated at supersonic speeds. Nickel is an extremely scarce metal with over 90 percent of the world production coming from Canada and Cuba. There are small Finnish deposits at Petsamo which are under Soviet control. Nickel has a large quantity use as an alloy. However, only small percentages of nickel are required in alloys and therefore, decontrolling it in quantities up to 30 percent means that the Communists have available all the nickel they can buy.

Mr. Stassen in his fifth Battle Act report to Congress made statements on pages 21 and 44, in which he stated copper and nickel remained under embargo. This statement is not in conformity with the facts. It was characterized by another witness and by some members of the subcommittee as false and misleading (p. 122).

Beryllium

After the COCOM meetings in Paris, 1954, alloys up to 50 percent beryllium were decontrolled. Experts testified that this was a highly strategic material and that beryllium alloys containing up to 3 percent beryllium are necessary in the atomic energy programs (p. 123, expert testimony of Mr. George Holderer).

Zirconuim

After the 1954 Paris conferences zirconium alloys up to 60 percent were decontrolled. This, like beryllium, is a very strategic metal with a high value in the nuclear reactor program. It has excellent properties for high strengths and high temperature resistance. It is high on the United States list of critical materials (expert testimony, Mr. George Holderer, p. 124).

Cobalt

Decontrol of alloys was raised from 4 percent to 6 percent cobalt content. Like zirconium and beryllium, its uses in fissionable nuclear fields and its highly strategic properties are comparatively well known (p. 124, expert testimony of Mr. George Holderer).

INDUSTRIAL EQUIPMENT

Induction furnaces

Induction furnaces designed to operate up to 1,100° C. and pressures lower than 0.1 millimeter of mercury are essential in working metals which have an affinity for atmospheric elements and, therefore, must be worked and melted in a vacuum. These furnaces are essential for working such strategic metals as titanium, zirconium, beryllium, tungsten, molybdenum, vanadium. Expert testimony showed that the temperature point can be raised by utilizing crucible grade refactories within the furnaces (p. 128, expert testimony of Mr. Oliver Ralston, Chief Metallurgist of the Bureau of Mines).

Superrefractories

Refractories composed of less than 97 percent by weight of beryllium oxide, magnesium oxide, zirconium oxide, stabilized with lime or magnesium oxide, were decontrolled at COCOM. These refractories were termed superrefractories by Mr. Oliver Ralston, Chief Metallurgist of the United States Bureau of Mines (p. 128). These superrefractories, when installed in the induction furnaces, permit making of high temperature alloys at heats up to 2,000° (p. 127). Alloys such as molybdenum alloys can resist heat and retain their strength. The friction that is developed in up-to-date guided missiles and intercontinental missiles will melt ordinary high temperature metals, such as aluminum and stainless steel. The super-high-heat resistance can be met only with molybdenum alloys, etc. The superrefractories coupled with the induction furnaces have been decontrolled, and the sale and shipment of these items permits the Soviet bloc to make superalloys for the guided and intercontinental missiles, as well as the coverings or skins of their supersonic jet planes and rockets.

RAILROAD EQUIPMENT AND ROLLING STOCK

The Soviet Union has entered into trade agreements with several western European nations to take railroad rolling stock, but the

amount of trade in such items has remained small. For example, the total United Kingdom exports of railroad equipment to the bloc for years 1954 and 1955 total only $436,863. This, despite the bright promises of greatly increased trade tendered by the Communists. It is an excellent illustration of the Communist effort to create a schism in the NATO ranks. It succeeded in getting United Kingdom and other western powers to insist that railroad rolling stock be decontrolled. Once decontrolled, the Soviets failed to place orders for such rolling stock except for token quantities. Nevertheless, the fact remains that it can suddenly and freely place orders and get delivery of railroad cars of all descriptions since these items have been decontrolled.

British lists show various important types of railroad rolling stock have been decontrolled, including flat cars capable of transportation of tanks, trucks, etc.; tank cars used to carry petroleum, chemicals, liquids; well cars under 80 tons capacity which are considered very important—these cars are dropped center sill cars which give greater clearance under bridges in tunnels, etc.; electric engines, diesel engines, mining locomotives, rails.

Our Defense Department expert, Mr. Claud A. Simpson, Chief of Land Transportation, Department of Defense, singled out diesel electric locomotives as a particular example. He stated this type of equipment can be used not only for transportation but also as emergency electrical power generators and as such, in his opinion, helpful to the Soviet war potential and detrimental to the United States in time of war (p. 143).

ELECTRIC POWER EQUIPMENT

The Defense Department representative, Mr. George A. Grimm, Chief of Utilities, Division Office of Assistant Secretary of Defense for Properties and Installation, pointed out that all electric power is strategic and that the economy of the Soviet Union is almost entirely dependent on the degree or adequacy of its power supply. Therefore, power as such is strategic, and the equipment that is necessary to generate and utilize electric power is strategic.

He testified that "there is a deficiency of electric power supply in the Soviet bloc" and a deficiency in equipment to generate such power. Although the Soviet Union has the ability to produce all of the electrical power equipment it needs, it cannot produce it fast enough to satisfy the necessary civilian and military needs (p. 320). Therefore, the Soviet Union seeks to purchase generating equipment so that it can accelerate its military buildup. The Defense expert stated that it takes about 3 years to manufacture and install a 60,000-kilowatt generator (p. 321).

Fissionable material production requires tremendous blocks of power. The Soviet, in order to maintain its fissionable production, must drain electric power from its domestic consumption. It is well known that the production of atomic energy in the United States requires more power than any other industry in the country (p. 321–322). In the United States atomic energy production takes approximately 10 percent of the total electrical power output, whereas in the Soviet Union, because of the limited power facilities, one-third of its entire electrical power output is used in atomic energy production (p. 333).

Khrushchev, in a speech on August 4, 1955, was critical of deficiencies in Soviet machine tool production, but he was even more critical

of Malenkov's failure to produce electrical generating powerplants rapidly enough to supply the needs of the Soviet Union in this field (p. 321). Power is indispensable in the production of fissionable material, the manufacture of aluminum, magnesium, and the other light metals which are needed for rockets and guided missiles (p. 333). Light metals production plants are also tremendous consumers of electric current.

Yet despite the desperate and critical need for electric power and the admitted shortage in the Soviet Union, the Defense Department expert testified that after the COCOM meeting in 1954 there was little left under controls in the electric power generating field as disclosed by the British lists (p. 334–5).

The committee's investigation revealed that among other things there was decontrolled at the Paris COCOM conferences the following items:

Electrical generators

Sixty thousand kilowatt generators.—Generators up to 60,000 kilowatts can be sent to the Soviet bloc. The Defense Department expert testified that this generator was highly strategic, that its principal use would be to generate power for the production of fissionable hydrogen and atomic material, taking about 3 years to build and install such equipment. The purchase of these generators manufactured in the free world gives the Communists this time advantage and frees Soviet engineers and plants from the production burden. In addition the purchase of this type of equipment abroad releases Soviet manpower and facilities to produce additional or other types of war material (pp. 321–326, testimony of Mr. George Grimm, Defense Department expert).

Small generators

Small generators starting at 1½ kilowatts were decontrolled. The Defense experts testified that these units were strategic and had a strictly military use, particularly in fire controls of artillery weapons, power supply to radar stations, and communication centers. They are indispensable to modern war machines. Defense experts testified that they tried to hold the line at 1½ kilowatts, but all generators up to 60,000 kilowatts were decontrolled (p. 323, testimony of Mr. George Grimm, Defense Department expert).

Turbines

Turbines are usually associated as a prime mover of a generator. The United States tried to hold controls at 1,000 horsepower. Defense experts, while restricted from testifying as to the United States Battle Act and international lists, testified that it was public knowledge published in the British lists that turbines generating up to 85,000 horsepower were decontrolled and could be sent to the Soviet nations (p. 330, testimony of Mr. George Grimm, Defense Department expert).

Diesel engines

Those engines rated up to 1,500 horsepower with a rotary speed up to 600 revolutions per minute were decontrolled. These engines were described as prime movers for electric generators and were regarded as highly strategic. The Defense expert pointed out that to all intents and purposes controls over diesel engines are almost completely

ineffective (p. 335, testimony of Mr. George Grimm, Defense Department expert).

Transformers

In order to make power systems operate, transformers are necessary in transmission lines and to transform voltage from high tension to low tension for distribution and utilization. The Soviets are behind in technology and developement of high-voltage transformers, insulators and design of windings, and so forth. The acquisition by and the export of late-type transformers to the Communist nations gives the Soviet several years of design and development advantage (p. 336, testimony of Mr. George Grimm, Defense Department expert).

Rectifiers

Mercury power rectifiers, considered by Defense experts to be highly strategic, were decontrolled. A review of the British list disclosed that all types of rectifiers which can be used in production of aluminum, electrolytic processes, and electrochemical processes were dropped from controls. These included mercury rectifiers, mechanical-type rectifiers, and rotary converters. These converters are also used for production of direct current for mine apparatus, mine locomotives, and traction devices (p. 336, testimony of Mr. George Grimm, Defense Department expert).

ELECTRONIC EQUIPMENT

Crystal diodes.—Diodes are of two types: Silicon and germanium. The silicon types are used at frequencies higher than 250 megacycles, as well as being used in radar and similar technical devices. The germanium diodes operate at below 250 megacycles and are used by the thousands in military devices, such as walkie-talkies, tank plug-in units and other communication equipment. The Defense Department expert, Mr. Park L. Bedford, testified that these diodes are highly strategic and very difficult to manufacture. He testified that a large portion of the Signal Corps research and development has gone into improvement of this type of item and that many improved versions of germanium diode have emerged from the military transistor research and development program. As a result of the COCOM conference all diodes under 250 megacycles were decontrolled (pp. 311–312, testimony of Mr. Park L. Bedford, Chief of Components Section of the Research and Development Division of the Chief Signal Officer of the Defense Department), with the result that all this advanced technology becomes available to the Russians.

Subminiature tubes

Tubes of the type used in battery-operated systems were decontrolled. Defense experts testified that the predominant use of this type of tube was in the military and that it represents one of the most strategic types of electronic tubes. It is the tube which has the widest military application in tactical communication equipment. It is used primarily in guided missiles where miniaturization, low weight, compact size, and reliability are absolutely essential. By purchasing this tube, the Communists obtain the advantage of the design resulting from the research and development by our military agencies (pl. 312–14, testimony of Mr. Park L. Bedford, Defense Department expert).

Electronic vacuum tubes

These are special tubes designed to withstand severe conditions of shock and vibration. Export controls over these tubes were changed to permit the export of tubes which withstood acceleration tests up to 450 Gs. This had the effect of releasing certain tubes that are used in guided missiles, rockets and V–2 fuse devices (p. 315, testimony of Mr. Park L. Bedford, Defense Department expert).

Radio transmitters

Transmitters within the frequency range area of 1.5 megacycles and up to 30 megacycles were deleted and decontrolled.

The Defense Department expert, Mr. Park L. Bedford, testified that it is within this frequency range that the military command communication system, as well as Voice of America, operates. He testified that the transmitters that may now be sent to the Soviet Union may be used for jamming the Voice of America, as well as jamming our military command communication system. He pointed out the dire consequences of this situation in time of war.

AM, FM, and TV transmitters

This type of equipment was decontrolled. The Defense expert, Mr. Bedford, testified while these transmitters are primarily designed for civilian use, they incorporate the latest technology in design and circuitry and contain electronic components applicable to military apparatus (p. 316).

Single channel transmitter

Single channel transmitters below 180 megacycles were released from control. There are land-mobile units. They are used by military police and fire-fighting units, as well as mobile maintenance vehicles, though they also have common commercial and civilian use (p. 316, testimony of Mr. Park L. Bedford, Defense Department expert).

Carrier frequency telephone terminal associated telegraph terminal equipment.

This combination of two items gives a multichannel telephone and telegraph facility. This equipment has been deleted from the control list. It has been described by Mr. Bedford, the Defense Department expert, as the heart of our military communication system. It is indispensable to the military in that it permits the simultaneous transmission of a number of telegraph and telephone communications on a single wire, where otherwise only one call at a time could be transmitted. It can be hooked up to any single telephone line between two points (p. 316).

The Defense Department expert, Mr. Bedford, pointed out the strange inconsistency that the trade with the Soviet bloc of single circuit equipment such as radio relay is still controlled, but that the above-named equipment which turns a single channel into a multichannel system has been decontrolled and can be shipped to the Communists (p. 317).

Test equipment

The Defense Department expert, Mr. Bedford, testified that there are various types of test equipment which collectively have strategic significance and yet were decontrolled. This equipment is necessary

in research and development in the electronic and communication field. The expert testified that this type of equipment should have been barred from export even though it has civilian use because of its military research and development importance (p. 317).

Statistics as to the actual volume of shipment of most of the above items are not available. Apparently separate figures of the quantities of each item such as boring or milling machines, subminiature tubes or rectifiers, etc., are usually lumped into a general classification, such as industrial machinery or electrical machinery, which includes items of nonstrategic materials.

The total trade figures in each general category are set forth in table 5A, page 87, of the Seventh Annual Battle Act Embargo List, but such trade figures do not truly reflect the amount of trade in strategic materials. On page 27 of this Report, there is further discussion on the amount of trade with the Soviet bloc.

PART III. UNITED STATES REVIEW OF THE LIST

The testimony shows that in late 1953 and early 1954 the Joint Operating Committee undertook to reevaluate and revise all of the items under export controls, both "domestic and international."

Task groups of experts were organized to study the strategic significance of each item on the list. Shortly after the British pressed for revision of the program in Febraury 1954, a so-called crash review was undertaken to meet the deadline of April 27, 1954, for the first negotiations in COCOM at Paris (p. 212).

Testimony of the witnesses showed that the "hurry up" atmosphere and the shortage of time did not permit the experts to properly prepare and analyze the strategic aspects of the listed items (p. 212). According to information supplied by the International Cooperation Administration, the advisory committees known as EDAC and ACEP held meetings on seven occasions in 1954. Only three of these meetings were during the review period between January and August 1954; viz, on January 15, 1954, March 31, 1954, and June 11, 1954. No meetings were held during the "crash" review between April 1 and May 20, 1954 (p. 211). This situation takes on particular significance when we consider the position taken by the executive department that Joint Operating Committee recommendations were not final but were reviewed by ACEP and EDAC.

These committees made little or no formal review of the JOC recommendations prior to forwarding these decisions to the negotiators in Paris. Admiral DeLany testified, however, that he kept in personal touch with the discussion that went on regarding each item, even though no formal review was made. Formal reviews by EDAC and ACEP were undertaken only in those instances where agencies or departments requested an appeal. Since the documents have been refused to the subcommittee, we cannot verify the number of appeals that were taken. We have been informed that 4 or 5 appeals were taken, but have definite information on only the one appeal dealing with petroleum products.

The experts from the Defense Department, such as Maj. Jack Fisher, technical adviser on machine tools (p. 190); Mr. John Williams, Chief of Production, Office of Assistant Secretary of Defense; and Mr. Robert Martino, Chief of the Security Trade Section, Economic

Development Branch, Office of the Assistant Secretary of Defense, in the early days of the hearings, prior to the time they were instructed not to testify (pp. 273 and 282), stated under oath that they were opposed to decontrol of almost every item on the strategic list (p. 215), but that the JOC chairman, Mr. Herbert Blackman, did not accept their advice and despite their opposition based on expert knowledge, approximately one-third (150) of the items out of the 450 items or categories on the list were decontrolled or deleted from the list at the JOC level by the decision of Mr. Blackman even before negotiations were held in Paris (pp. 214 and 215).

The significance of this fact is that the United States position in Paris was weakened by the concessions made by the United States before negotiations even started. By the end of the COCOM negotiations, a total of 200 items were removed or downgraded from the controls list, but the United States had apparently agreed at the JOC level to this action on 150 of these items before it even went into conference in Paris.

Mr. Blackman had the sole responsibility for making the recommendations at the JOC level (p. 213). The views of the other members of JOC were merely advisory. EDAC and ACEP were supposed to review the JOC recommendations, but there is no convincing evidence that they did so.

WHO DETERMINED WHAT WAS STRATEGIC

The purpose of the controls was, in essence, to prevent strategic and critical materials from going to the Communist nations. Throughout the investigation it was clearly apparent that the exercise of judgment and determination of the values of whether an item was strategic and critical and the effect such item would have on a war economy was left in the hands of economists in the Department of Commerce and Department of State (p. 212). During the hearings it was evident that the Defense Department failed to take any aggressive steps to prevent decontrol and relaxation on shipments of strategic materials to the Communists. The Defense Department failed to appeal when its experts were summarily overruled. The lower echelon in the Defense Department, which endeavored to prevent the relaxation of controls, failed to receive any support from the higher levels in the Department (p. 220).

In only one instance, where the Joint Operating Committee recommended decontrol of 60 percent of the petroleum products and equipment items (p. 227), did a high-ranking Defense official, in this instance, Gen. W. W. White, staff director of the Petroleum Logistics Division of the Department of Defense, take real issue with the Commerce and State Departments and demanded a formal review (p. 232), and the items were reinstated for control. If other Defense officials of high rank had taken similar aggressive action to prevent decontrol, the situation undoubtedly would have been different today.

Another aspect is the failure of the Defense Department to be adequately represented at the COCOM conferences in Paris on the negotiations for international controls. On negotiations involving strategic and military considerations State Department and Commerce Department negotiators of a comparatively lower echelon—economists and not military experts—were left to handle such negotiations.

PART IV. TRADE VERSUS AID

INCREASE IN TRADE

The outcome of the relaxation of export controls was an increase in trade between the East and the West. The Department of Commerce figures show that the trade between Western Europe and the Communist bloc in 1953 was $1.5 billion and in 1955 for the first 10 months was $2.2 billion, which, if projected for the 12-month period, reached the sum of $2.5 billion, representing an increase of 65 percent (p. 456).

In the Annual Battle Act report on page 12, an analysis made by the Battle Act Administrator shows that the Soviet Government after the relaxation of export controls shifted its purchase of goods from the COCOM countries from the "soft" goods, which can also be classified as the nonstrategic goods, to the "hard" goods. The soft goods decreased by $14 million between the first and second half of 1954, while the hard or strategic goods exports by the COCOM increased during the same period by $25 million. The principal item of the hard goods was copper wire.

The British Information Service on February 20, 1956, released a trade bulletin No. 9 United Kingdom Trade with Russia and China, which showed that since the 1954 relaxation of export controls on trade with Communist nations, sales to Soviet Russia were more than doubled from $34,440,000 in 1953, to $89,300,000 in 1955. It also showed that the sale of copper wire to Russia by Britain jumped from 7,500 tons in 1954 to 33,200 tons in 1955.

The Communists' bulletin, International Trade No. 2, issued February 1956, in an article by the president of the Polish Chamber of Foreign Trade, Dr. Stanislas Gall (p. 22), states:

> * * * West European imports from the countries of Eastern Europe increased from $856 million for the year 1952–53 to $1,185 million in 1954–55.
>
> During the same period West European exports to Eastern Europe increased from $704 million to $1,006 million.

In this article Dr. Gall discusses trade agreements and shows the large increase in trade agreements that occurred after the relaxation of trade controls. In his statement he calls attention to the fact that in 1955 some 178 trade agreements were concluded between the Soviet bloc and the Western countries. He stated:

> The numerous new trade agreements concluded in 1955 between the socialist sector and West European and Asian countries, as well as with the countries of Latin America and Africa, are the concrete expression of the considerable improvement in the development of trade between the two world markets (it is estimated that in 1955, 178 agreements were concluded between the East and the West).
>
> From the results of East-West trade in 1955, the numerous new agreements and treaties which have been signed and the various official statements, it may be concluded that 1956 will show a further development in economic cooperation between the two great world markets.

SOVIET MOVES FOR INCREASED TRADE

The Soviet bloc is attempting to increase the wedge between NATO countries by holding out offers for increased trade. Secretary General Nikita S. Khrushchev and Premier Nikolai Bulganin, on their visit to England in April 1956, urged the abolishment of all strategic controls. The New York Times of April 24, 1956, reporting on a speech made before the "British Industries Fair," stated:

> * * * Repeatedly, Mr. Khrushchev emphasized the need for expansion of "real trade" as a step on the "road to friendship, real strong friendship," between Britain and the Soviet Union.
>
> "The major factor in development of good relations is the development of trade," Mr. Khrushchev asserted.
>
> But this trade, he indicated, must be more than the exchange of Russian crabs for British herrings.
>
> He made it clear that he defined "real" trade as commerce in articles such as machine tools, which the West now bars to the Soviet bloc.
>
> * * * Assailing restrictions on trade in strategic goods, the Communist leader asked for a definition of strategic and nonstrategic goods and assured the audience of businessmen "a really widescale development of trade is necessary so that you would buy what you need from us and we would buy from you what you can sell us."

Another example of the inducements offered to the industrialists of the Western world to trade with the Soviet bloc can be found in the Soviet publication. the International Trade Bulletin No. 2 (supra) issued February 1956 which contains an article by the president of the Polish Chamber of Foreign Trade, Dr. Stanislas Gall, entitled "The Development of Economic Relations Between East and West During 1955." This article is designed to whet the competitive and trade instincts of industrialists of the free world who are anxious to get business and who are not particular as to what the ultimate effect may be. In this article, Dr. Gall states:

> The attraction of the Polish market for West European and overseas exporters is shown by the fact that Poland imports about 70 percent of her iron ore, 100 percent of manganese [2] and chromium ore, as well as natural rubber, cotton, various metals, colonial products and other items, 64 percent of the requirements of the leather industry and 74 percent of the requirements of the textile industry.
>
> The rapidly increasing industrialization of the country calls for an increase in imports of transport material, machinery, equipment and apparatus which is not produced in Poland. The planned increase of agricultural production necessitates increasing purchases abroad of agricultural machinery and implements, raw materials for the manufacture of fertilizers, seeds, etc. Because of the continuous improvement in the standard of living, the import of luxury goods, precision instruments, metal goods, textiles, shoes, food, etc., is steadily rising.

[2] It should be noted that the statements of Dr. Gall are not quite accurate. Soviet Russia is one of the world's largest producers of manganese and it should be quite apparent that Poland will get manganese from Russia and not Western Europe.

REALITIES OF RUSSIAN TRADE

In the recent issue of one of the leading English publications, The Economist, dated May 5, 1956, there appeared an excellent analysis of trade with the Soviet countries under the title "Realities of Russian Trade." This article followed closely on the heels of the visit of Bulganin and Khrushchev to England. The article refers to the offers for future trade and questions the ability of the Communists to fulfill payment of the goods they offered to buy based on past experience, as well as on the economic factors known to exist in Russia. The article points out:

> Our Russian visitors have left behind only one concrete proposal—their enormous shopping lists. They have offered to buy during the next 5 years goods worth some 800 to 1,000 million pounds, a large part of them in the form of direct exports from this country. Last year Britain's exports and reexports to Russia were worth some £32 million. About a third of the goods now listed are engineering products, ranging from steel mills and machine tools to electronic devices; about a tenth are ships and docks; the rest are semi-finished steel and other metal products, raw materials such as rubber, wool and cocoa—Britain's traditional reexports—and finally (the only consumer goods mentioned) woolen cloth and salted herrings.
>
> All talk of trade, like every other instrument of Soviet policy, has, of course, its political meaning. To divide the Western nations, and encourage a revolt of opinion against the Allies' stragetic embargoes, are the more obvious political aims of Mr. Khrushchev's grandiose offer to Britain.
>
> But while the Russian offer has an obvious political side, it nevertheless needs to be treated seriously and to be analyzed in strictly economic terms. Even if a third of the requested imports are found to be embargoed, Russia has still made a qualified offer to import over £500 million of goods from Britain in 5 years. What chance is there of its fulfillment?
>
> Light is thrown on the Russians' new list by the fate of the very similar one which they handed with a flourish of publicity to a group of British businessmen in Moscow in February 1954. They then offered to buy 400 million pounds worth of goods in the 3 years 1955–57, "given proper conditions in respect of normalization of Anglo-Soviet trade." After this they quickly placed several big orders in Britain—a 7 million pounds order for textile machinery, an order for milkbottling equipment, an order for 20 trawlers, orders for electrical equipment and machine tools. In all, orders worth over 30 million pounds seem to have been placed that year. The western countries meanwhile made important relaxations in their strategic controls, notably in regard to machinery and materials such as copper; and, from their pitiful level of 3.3 million pounds in 1953, British exports to Russia recovered to 10.1 million pounds in 1954 and 22.9 million pounds in 1955. But only a fraction of the grand program sketched out in Moscow was fulfilled. Russian orders, after the initial stage, were few. *Heavy purchases of*

copper were made once the strategic controls were relaxed, but nothing more was heard of orders for manufactured consumer goods or for machinery for consumer industries, and the order for textile machinery was reduced. [Italics supplied.]

The new list, then, at once provokes the question whether the Russians would be able to pay this time. How can they find 800–1,000 million pounds for imports from Britain, in addition to their other sterling needs? In his announcement, Mr. Khrushchev pinned his faith to seven main export commodities: grain, timber cellulose, cotton and flax, manganese ore, pig iron, and furs and hides. What are the prospects for bigger Russian exports of these goods, and could Britain absorb them in large quantities without rebuffing other valued trade partners?

For three of the commodities mentioned, pig iron, manganese, and furs and hides, the potential market in Britain is insignificant. Last year the British steel industry imported nearly 5 million pounds of Soviet pig iron, but it is unlikely to rely on Russia for more than marginal supplies. Britain's total imports of manganese ore were worth only 5.6 million pounds last year, so that even if the Russian share (1.8 million pounds) were raised, the gain would be small. Total fur and hide imports were worth 43 million pounds, and here the Russian share (over 6 million pounds) might be increased, but not by more than a few million pounds. Cotton and flax are no more likely to provide any massive growth in Soviet exports. Nor are prospects for timber exports encouraging. They have recovered in the last 2 years, and Britain could easily absorb still more Russian timber, thus saving precious dollars. But the inefficiency of the Soviet timber industry has long been the subject of criticism. Increased output is planned, but rising domestic needs, shortage of skilled labor and equipment, and transport difficulties as the forest line recedes, may make it difficult to expand the export surplus at all rapidly.

One last resource remains. Gold, before the war, was one of Russia's main exports to this country, and its large reserve and large annual output (some 125 million pounds) might make it so again. But since the war the Soviet rulers, apart from a brief spree indulged in by Mr. Malenkov shortly after Stalin's death, have been miserly with their gold.

If the Russian orders promised to become a steady line of business, firms might be more interested, but the erratic course of Soviet buying in the past—reflecting lumbering changes in economic or political policy, or emergency needs when plans went wrong—must make many businessmen think twice about taking on large Russian orders and thus risking the loss of the next batch of orders from, say, a reliable Norwegian or Commonwealth customer. The Russian offer to buy steel from this country seems even more unrealistic; the British steel industry may be unable to do more than satisfy home needs and its traditional export customers for years to come.

Not all the goods on the Soviet list could be produced by British industry. Some of the electric furnaces asked for have only been made in the United States.

The list reveals, indeed, a traditional characteristic of Soviet purchasing—an intense interest in the latest products of western skill. Leading manufacturers of machine tools, of electronic equipment, and of chemical plants might be able to extend their business in Russia, particularly if the strategic embargo were relaxed—and if they thought it prudent to supply the Russians with the latest products of British research when Russia does not adhere to any international patent conventions.

Despite these doubts, the genuine Russian interest in our products must once more prompt the question whether the strategic embargo should be relaxed. Certainly such a relaxation would lead to an increase of exports of embargoed goods. But would this be at the expense of goods now free from controls? The course of Russian trade in the first quarter of this year is suggestive. *Total British exports to Russia rose by 4.9 million pounds, but 4.7 million pounds of the increase was accounted for by bigger Russian purchases of copper and alloys, recently freed from the strategic embargo.* [Italics supplied.] Nor should it be forgotten that the products in which the Russians show most interest—the latest products of our technical skill—are just those for which ready markets can be found elsewhere.

COMPARISON OF SIZE OF THE UNITED STATES MILITARY AND ECONOMIC AID TO NATO NATIONS WITH SIZE OF NATO TRADE WITH COMMUNIST EUROPE

Since World War II the United States has expended many billions of dollars in granting economic aid to the nations of the free world through the Marshall plan, ECA, MSA, FOA, ICA, and others. Over $31.9 billion in aid was given to COCOM countries since the end of World War II.

The present Congress received a budget request to appropriate another $4.9 billion in foreign military and economic assistance. It is pertinent therefore to compare the benefits the NATO nations are receiving by way of military and economic aid and the benefits they are receiving by trading with the Communist nations. The Communists have held out promises of great trade which they have not fulfilled. With almost half of the list of strategic goods deleted by COCOM in August 1954, we find that trade between the Soviet bloc and the NATO nations, while it increased, was not a market for consumer goods. The increase was in the "hard" or strategic goods at the expense of decreased trade in "soft" or consumer goods. (See p. 34, supra, this report.)

The total exports of COCOM countries to the Soviet bloc (p. 12, seventh Battle Act report) for 1953 and 1954, in both strategic and nonstrategic materials, are compared to the United States military and economic aid to the COCOM countries:

	COCOM country strategic and nonstrategic exports to Communist nations	Aid by United States to COCOM nations
1953	$545,200,000	[1] $5,720,000,000
1954	750,500,000	[2] 3,109,000,000
1955	870,553,000	[2] 2,206,322,000

[1] Exclude Japan.
[2] Exclude Japan, Greece, Turkey.

Trade increased but still was well below the amount of aid given these nations.

Statements have been made that the withdrawal of military and economic aid may not work to the benefit of the United States. On the other hand, it is apparent that exports of vital strategic goods, such as copper wire, and the removal of 200 out of 450 strategic items from the controls and embargo lists does not work to the benefit of this Nation or to the nations of the free world.

Spokesmen for the administration have indicated that our aid should not be used as a means of influencing the free nations for fear that we might alienate them. This is, of course, a matter of opinion, but the question of the amount of trade assumes an importance when the amount of trade that we asked the allies to forego is measured against the benefits they received by way of aid and military assistance. The seventh Battle Act report, table 31, page 80, shows that the total OEEC nations exports to the world amounted to $29,847,700,000, whereas the total exports of the OEEC nations to the Soviet bloc amounted only to $914,800,000, or only 4 percent of their world export trade. The total world trade between July 1954 and June 1955 amounted to $159 billion. Trade with the Communist nations during this period, including China, amounted to only $3.9 billion, which represents only 2.4 percent of world trade (chart No. 2, p. 6, seventh Battle Act report).

The Battle Act Administrator and other spokesmen for the Government have urged that East-West trade is essential to the welfare of our allies and then these same officials turn around and argue that the size of East-West trade is small and inconsequential and that the Communists have little to offer in return. This reasoning renders it more difficult than ever to understand the reasons behind our agreement to the decontrol of such strategic materials, such as copper wire, aluminum, machine tools, and electronic equipment, when it becomes apparent that the only countries that really benefit by such trade are the Communist nations.

PART V. SUPPRESSION OF INFORMATION AND CENSORSHIP BY GOVERNMENT AGENCIES

In the past few years there has been a growing tendency by Government agencies to suppress news from Congress, the press, and the public, particularly where such news is embarrassing to whatever administration is in office. In more recent years certain presidential Executive orders have been the target of those opposed to censorship by Government. They include President Truman's Executive

Order No. 10290 issued in 1951, President Eisenhower's Order rejecting President Truman's order and substituting his own Executive Order No. 10051 issued in 1953, and President Eisenhower's letter of May 17, 1954, directing the Defense Department not to give information to this subcommittee in the Army-McCarthy hearings.

The danger of suppression of facts and censorship by Federal agencies is more important today than ever. It is imperative as never before that there be no obstacle or blockade between the facts of today's world and the American people. Our liberty and the safety of our Nation must fundamentally be protected by a thorough understanding by the public of the great issues and the problems of today.

If the position of the executive departments were to prevail, it would mean that they would have an absolute right to deny to Congress or the public any information from the executive departments except such matters as are required to be public by statute.

Members of Congress who have the responsibility for voting appropriations for national defense for military and economic aid and assistance to our allies have the right, indeed the duty, to be informed and to know what action is being taken by the executive branch of the Government in this field of operation. Congress, the press, and the public have a right to know the attitude and the actions taken by nations with respect to trade in strategic goods with the Communist bloc.

This subcommittee under the Legislative Reorganization Act is charged with the duty of examining into the operations and efficiency of the executive departments. One of the further obligations of the Committee on Government Operations (formerly Expenditures) is to study intergovernmental relationships between the United States and the States and municipalities and between the United States and international organizations of which the United States is a member.[3]

Investigations of the executive departments are necessary and proper, not only because Congress must learn the needs of the Department in order to legislate properly, but also because it has the responsibility to see that the Department is being operated in accordance with law and policy. When Congress has information that a Department is being run inefficiently, corruptly or in violation of law or policy, it is its duty under the Constitution to investigate so that corrective action may be taken.[4]

GOVERNMENT EXPERTS BARRED FROM REVEALING FACTS

Shortly after the Senate subcommittee hearings began, the Defense, Commerce, and State Departments, acting jointly with the ICA, directed their employees not to answer any questions pertaining to the internal operations of their departments which were related to the revisions of the lists of strategic materials. For example, all employees of the Department of Commerce were directed by the Secretary of Commerce, Mr. Sinclair Weeks, to refuse to answer any questions put to them by the subcommittee. The directive to the employees stated:

> * * * You are instructed not to testify either in public or executive closed sessions with respect to any advice, recom-

[3] Public Law 601, Rule 9, Committee on Expenditures, Sub-D.
[4] Senate Judiciary Memorandum, proceedings involving contempt of Congress, dated January 6, 1947.

> mendations, discussions, and communications within the executive branch respecting any course of action in regard to East-West trade controls or as to any information regarding international negotiations with the countries cooperating in East-West trade controls * * * (p. 282).

EXECUTIVE AGENCIES' LEGAL CITATIONS

The executive departments sought to sustain the legality of their position by citing the cases of *Boske* v. *Comingore* (177 U. S. 459); *Touhy* v. *Ragen* (340 U. S. 462); *U. S.* v. *Reynolds* (345 U. S. 1); *SEC and William Timbers* (226 Fed. 2d 501).

None of these cases are applicable, since each case relates to court opinions on the right of Federal Government to withhold information from either the courts or private individuals, not Congress. In each of these cases the right to withhold information was based on authority granted to the agency by Congress to make regulations authorizing such withholding. In none of these cases was there an adjudication that the agencies had an inherent right to withhold information. In fact, the Government had expressly asked for a firm adjudication on this point in the Reynolds case, but the court refused to pass upon this request, and the case was adjudicated only on the basis of authority granted to the Defense Department and the Air Force by Congress. No case was cited giving any court ruling that the executive departments could withhold information from legislative committees.

CONSTITUTIONAL SEPARATION OF POWERS IS SUBJECT TO CHECKS AND BALANCES

The principal authority cited in the President's letter of May 17, 1954, is the theory that there is a constitutional separation of powers between the three branches of Government which cannot be infringed upon by another branch of the Government. The executive departments in urging this theory overlook the wisdom of our constitutional fathers who, when setting up our Government, provided for checks and balances between the three branches of the Government to prevent the exercise of tyranny by the legislative, executive, or judicial.

It was well stated by Chief Justice Taft in *Ex parte Grossman*, (267 U. S., at pp. 119–120):

> Finally, it is urged that criminal contempts should not be held within the pardoning power because it will tend to destroy the independence of the judiciary and violate the primary constitutional principle of a separation of the legislative, executive, and judicial powers * * *.
>
> The Federal Constitution nowhere expressly declares that the three branches of the Government shall be kept separate and independent. All legislative powers are vested in a Congress. The executive power is vested in a President. The judicial power is vested in one Supreme Court and in such inferior courts as Congress may from time to time establish. The judges are given life tenure and a compensation that may not be diminished during their continuance in office, with the evident purpose of securing them and their courts an independence of Congress and the Executive. *Com-*

plete independence and separation between the three branches, however, are not attained, or intended, as other provisions of the Constitution and the normal operation of government under it easily demonstrate. By affirmative action through the veto power, the Executive and one more than one-third of either House may defeat all legislation. One-half of the House and two-thirds of the Senate may impeach and remove the members of the judiciary. The Executive can reprieve or pardon all offenses after their commission, either before trial, during trial, or after trial, by individuals, or by classes, conditionally or absolutely, and this without modification or regulation by Congress. *Ex parte Garland* (4 Wall. 333, 380). Negatively, one House of Congress can withhold all appropriations and stop the operations of Government. The Senate can hold up all appointments, confirmation of which either the Constitution of a statute requires, and thus deprive the President of the necessary agents with which he is to take care that the laws be faithfully executed.

So, also, in Cooley's Constitutional Limitations, 7th Edition, the power of one branch to keep another branch within bounds of proper restraint and to check and balance one branch of Government against another has been set forth on page 64:

> The usual checks and balances of republican government, in which consists its chief excellence, will be retained. The most important of these are the separate departments for the exercise of legislative, executive, and judicial power; (a) *and these are to be kept as distinct and separate as possible, except insofar as the action of one is made to constitute a restraint upon the action of the others, to keep them within proper bounds and to prevent hasty and improvident action. Upon legislative action there is, first, the check of the executive, who will generally be clothed with a qualified veto power, and who may refuse to execute laws deemed unconstitutional; and, second, the check of the judiciary, who may annul unconstitutional laws, and punish those concerned in enforcing them. Upon judicial action there is the legislative check, which consists in the power to prescribe rules for the courts, and perhaps to restrict their authority; and the executive check, of refusing aid in enforcing any judgments which are believed to be in excess of jurisdiction. Upon executive action the legislature has a power of restraint, corresponding to that which it exercises upon judicial action; and the judiciary may punish executive agents for any action in excess of executive authority. And the legislative department has an important restraint upon both the executive and the judiciary, in the power of impeachment for illegal or oppressive action, or for any failure to perform official duty. The Executive, in refusing to execute a legislative enactment, will always do so with the peril of impeachment in view.*

THE PRESIDENT'S LETTER OF MAY 17, 1954

President Eisenhower in a letter addressed to the Secretary of Defense, dated May 17, 1954, during the Army-McCarthy hearings, directed the Secretary of Defense and the employees of the Defense

Department to withhold information from Congress and the public "whenever he found that what was sought was confidential or its disclosure would be incompatible with the public interest or jeopardize the safety of the Nation."

This letter specifically stated to the Secretary of Defense as follows:

> * * * You will instruct employees of your Department that in all their appearances before the subcommittee of the Senate Committee on Government Operations *regarding the inquiry now before it* (*Army-McCarthy hearings*) they are not to testify * * * [Italic and material in parenthesis supplied]

It is clear that this letter was intended to apply specifically to the Army McCarthy hearings.

It has been reported that this letter has since been cited by 20 or more Federal agencies and departments as grounds for refusing information to Congress.

The application of the principle enunciated in the President's letter has been disputed and criticized by the House Committee on Government Operations. The Committee Chairman, William L. Dawson, stated the claim "has never been upheld by the courts. It has been a mere Executive ipse dixit [say so]."

On May 3, 1956, the House committee issued a study entitled "The Right of Congress To Obtain Information From the Executive and From Other Agencies of the Federal Government." On page 25 of this study the committee drew the following conclusions:

> 1. Refusals by the President and heads of departments to furnish information to the Congress are not constitutional law. They represent a mere naked claim of privilege. The judiciary has never specifically ruled on the direct problem involved in a refusal by Federal agencies to furnish information to the Congress.
>
> 2. As far as access to information is concerned the courts have not distinguished basically between executive agencies and quasi-legislative or quasi-judicial agencies. Both appear to stand in the same status.
>
> 3. Judicial precedent shows that even the President has been held to be subject to the power of subpena of the courts. While this is so, it may be that the only recourse against the President himself is impeachment if he fails to comply with a subpena of either the courts or the Congress.
>
> 4. Any possible presidential immunity from the enforcement of legal process does not extend to the heads of departments and other Federal agencies. Judicial opinions have never recognized any inherent right in the heads of Federal agencies to withhold information from the courts. The courts have stated that even where the head of the department or agency bases his action on statutory authority the courts will judge the reasonableness of the action in the same light as any other claim of privilege. The courts have held that the mere claim of privilege is not enough.
>
> 5. There is no inherent right on the part of heads of departments or other Federal agencies to withhold information from the Congress any more than they have a right to withhold information from the Judiciary * * *.

INCONSISTENCY IN THE EXECUTIVE BRANCHES' POLICY IN REFUSING TO GIVE INFORMATION WHILE GIVING FAVORED PRIVATE CITIZENS SIMILAR INFORMATION

In the course of these hearings the subcommittee sought from the Departments of Commerce, State, and Defense, as well as the International Cooperation Administration certain documents, memorandums, and minutes of the Joint Operating Committee. The Joint Operating Committee is an interdepartmental committee set up to review items that were under control or embargo to the Soviet bloc and to make recommendations with respect to decontrolling or downgrading such items. These recommendations for the most part became the position of our Government at the COMCOM Conference in Paris in 1954.

The Senate Investigations Subcommittee was denied these documents on the basis that they were confidential interoffice memorandums and, therefore, could not be released to a congressional committee in aid of its legislative duties. The documents were refused to this subcommittee even on a confidential basis.

The Senate Investigations Subcommittee has taken the position that these documents should have been made available and that the subcommittee, Congress, and the public were entitled to know their contents.

The executive branches of the Government have been adamant in refusing to make such information available to this subcommittee, and it is difficult to reconcile such attitude with its willingness to give similar information to private individuals. It came to the attention of the subcommittee in the month of June that a book, written by Robert J. Donovan, had been published and was ready for early distribution entitled "Inside Story." The contents of the book are based upon documents, material, minutes, and other information similar in nature and character to that which this subcommittee had been trying to obtain in the course of discharging its legislative duties and responsibilities.

It is difficult to understand the attitude, action, and policy of the executive branch of the Government in refusing to give a congressional committee the facts and information needed for its legislative duties. while at the same time making available to a favored private citizen for commercial use and publication, confidential, secret documents and materials of similar character and nature.

In view of the disclosure concerning the material made available to Mr. Donovan, a request was made for the appearance of Mr. Maxwell Rabb, Cabinet Secretary, to appear and testify before this subcommittee on July 26, 1956, and explain the reasons and circumstances surrounding the releasing of this information to Mr. Donovan. Mr. Rabb failed and refused to appear.

Thereafter, a letter was sent to Under Secretary of State Hoover, Secretary of Commerce Weeks, ICA Director Hollister, Assistant Secretary of Defense Gordon Gray, calling attention to the fact that material of a confidential nature relating to the internal workings of the Government at Cabinet and staff levels had been disclosed to a private individual for a commercial purpose, and in the light of these facts, the chairman of the subcommittee again requested that the documents of the Joint Operating Committee, relating to decontrol of strategic materials, be made available to this subcommittee as early as possible.

RIGHT OF PUBLIC AND CONGRESS TO BE INFORMED

The issue of suppression of information raises not only the question as to the right of Congress to know, but also the question of the right of the public in a democracy to be informed as to the activities of its government.

The comment by Congress on censorship by Government agencies has been voluminous. Attention is called to the statement of Senator Ferguson in the Congressional Record, page 12498, September 27, 1951:

> It may be said that this practice of suppressing information in the executive department got its big start back in March of 1948. The Senator from Michigan was then chairman of the Senate Invstigations Subcommittee, and was investigating things that could be embarrassing to the administration. The subject of the investigation was the operation of the Government's loyalty program, revolving around the case of William Remington. As a footnote to the inquiry it may be recalled that its revelations prompted the first of the President's famous "red herring" statements. At about that time an Executive order was issued, placing certain files under the direct and exclusive jurisdiction of the President. On occasion the files were taken to the White House in order that they could not be subpenaed. Witnesses were told they were not allowed to testify upon matters before the committee. In the course of our hearing, an admiral was able to tell the Senator from Michigan, off the record, the fact that because of an order by the President of the United States he was not permitted to testify.

Congressman Halleck, on September 27, 1951, Congressional Record, page 12513, stated:

> Now President Truman is seeking to change all that. His censorship order gives every agency and department of the Government the absolute power to decide what information shall be given out to the people and what shall be kept from them. These agency heads are absolute czars unto themselves. When they order the iron curtain down it stays down—a gag on the press and radio of the Nation. Even Members of Congress may be denied the information they need to conduct the affairs of Congress.

Congressman Talle, October 1, 1951, Congressional Record, page 12693, stated:

> For example, Mr. Speaker, just last week the President of the United States issued his infamous Executive Order 10290, establishing censorship in all the agencies and departments of the Federal Government. It is significant that this lid of secrecy is being clamped down even as congressional committees are shifting charges of corruption in the Truman administration unearthed by alert, enterprising news reporters.

Congressman Miller, on October 1, 1951, Congressional Record, Appendix A6290, stated:

> Mr. Speaker, the new secrecy order promulgated by the President extending to all Government agencies the authority to classify information and refuse to reveal what they consider to be a threat to security, opens a wide avenue to the destruction of the freedom of the press, one of our fundamental rights guaranteed by the Constitution. The ease with which it can be interpreted by officials to permit suppression of information that might endanger their own security or that of the administration in power has been amply illustrated by past performances of the present and immediate past administrations.

Congressman William H. Harrison, on October 16, 1951, in a speech published in the Congressional Record, page A6753, stated:

> I wish to protest, Mr. Speaker, against the withholding of information requested by Members of Congress, requests made in an honest effort to serve the people we represent.

Congressman Charles A. Wolverton, Congressional Record of August 15, 1952, page A5089, stated:

> Even congressional committees have been stopped cold by executive censorship. The House Judiciary Committee investigating the Department of Justice asked the Department for the files on all cases where it had refused to prosecute cases that had been referred to it for criminal action by other Government agencies. The Department refused.
>
> For many years congressional committees investigating Communists in the Government have been refused information or even cooperation by executive bureaus.

On two occasions Senator Bender of this subcommittee, then Congressman, had cause to insert into the Congressional Record on October 2, 1951, page A6315, the following statement:

> Mr. Speaker, the blinders are on, boys, and you had better keep your mouth shut, too. This is the significance of the new Truman directive to all agencies throughout the executive branch of our Government. Henceforth, they are to issue no statements or other information which requires safeguarding in order to protect the national interest. The four categories employed by the State and Defense Departments to withhold significant items from publication, top secret, confidential, and restricted, are henceforth to become the watchwords of all executive agencies.
>
> Just what this might mean is not difficult to guess. A congressional investigator seeking to discover how many employees have been added to a special department might be told promptly that this was restricted data, whose revelation might give valuable tips to the potential enemies of the Nation. Nonsense of this kind has always been possible when censorship has been invoked in the name of national emergencies.
>
> At this particular time, when so many of the Federal agencies are under careful scrutiny, the new order takes on par-

ticular meaning. Despite the President's assertion that it is not censorship, it will look like censorship, it will act like censorship, and unless the American press is very much mistaken, it will also smell like censorship.

Again, on October 8, 1951, Senator Bender inserted into the Record the following statement:

> Mr. Speaker, if the power over the purse is the power over liberty, the power over the press is the path to dictatorship. Censorship of news released from Washington in the executive departments exclusive of the Defense and State Departments has seldom been practiced in American history. Even in Defense and State, we have developed a marked antipathy to any efforts to cut off our supply of information, and the extension of these restrictions into executive organizations such as Mr. Truman has now authorized is wholly uncalled for. Certainly, data getting into the hands of espionage agents of foreign governments may be dangerous to our security, but this information is not released to the public. It is stolen from precisely those departments which are always protected by the most rigid standards of secrecy.
>
> What most of us find most objectionable in the President's order is the ease with which it can be used to cover up blunders and incompetence, and the absence of any provisions for removing secrecy provisions after the emergency has passed. We may now find our friends in other countries revealing information which we are not permitted to publish or broadcast.
>
> When a man gets the use of a blue pencil, he is strongly tempted to use it. America has grown great through the dissemination of news and information. No government has ever succeeded in fooling the American people too long because we have an alert press. If we stifle this source, we may well stifle America with it.

This statement is particularly prophetic, especially the sentence which states: "We may now find our friends in other countries revealing information which we are not permitted to publish or broadcast." The British have published substantially the same export-controls list as that which our Government departments and agencies seek to hide and conceal from the American people.

More recent congressional comment on suppression of facts are detailed herein.

Senator McClellan on the Senate floor (Congressional Record, February 23, 1956, p. 2771) called attention to decontrol of strategic materials heretofore embargoed from going to the Communist bloc. He stated:

> The Government agencies acting in concert are doing everything to hinder and hamper the subcommittee's efforts to ascertain the facts concerning the relaxation of these controls. In addition to many oral requests, 13 letters have been written to various Government agencies requesting documents and pertinent information. Except for some cooperation from the Department of Defense, the information has not been forthcoming.

> The facts the subcommittee has developed thus far, and which I report to the Senate today, have not been made available or furnished to the subcommittee by the executive agencies of our Government.
>
> The information we have has been secured from documents and publications of foreign governments, where the information is being freely given out by our allies. That same information in the United States is being withheld by the executive branch of the Government from both the Congress and the American people. Let me give the Senate an example. The executive branch of our Government has declared even the Battle Act list to be classified, and therefore not available to the people of the United States. But classified and suppressed from whom? Not from the Communist or the Communist bloc countries. They know what they can buy; they know what they do buy and have bought.
>
> Mr. President, it is becoming quite clear that this material and the documents which the subcommittee has requested from the executive branch of the Government in the course of the investigation is being withheld from the United States Congress and the American public to prevent them from knowing what has happened, what has been done; to prevent them from knowing to what extent trade with the Communists in stratetic things has been relaxed with the concurrence of the United States Government. Can it be, Mr. President, this classification, this policy of secrecy, this suppression or withholding of the truth, is a process or an action designed for the hiding of errors, inefficiency, and bad judgment of Government officials? I am convinced it is. If not, then why not give the Congress the information and let the American people know the truth.
>
> Mr. President, why should not the American people know it, and why should not the Congress have complete information about it, so Congress can use the information intelligently, both as regards appropriations and in connection with strengthening the Export Control Act and also the Battle Act. In my judgment, Mr. President, as the Battle Act is operating now, it is almost a farce.

Senator McCarthy in a discussion on the Senate floor (Congressional Record, Mar. 22, 1956, p. 4741) made the following remarks:

> I was extremely critical of the Democrat administration for withholding information from Congress. During the hearings which the very able Senator from Arkansas has been conducting, I was appalled by the even greater secrecy maintained by the executive branch today. As the years go by the Executive is becoming more and more arrogant and highhanded toward legitimate congressional requests for information. I sincerely hope that the Senator from Arkansas, as chairman of the committee, will force a showdown, to determine whether Congress can get information which it must have in order to legislate intelligently. I do not believe we can pass on the $4.8 billion foreign-aid program the President has requested unless the Senator from Arkansas, as chairman

of the committee, gets the information which he has been requesting and which has been refused consistently.

I have never seen a more arrogant and evasive witness than Mr. Stassen. I hope the Senator will take some steps to get the information from him and other witnesses.

Senator Russell in discussing the trade in strategic materials stated as follows (Congressional Record, Feb. 23, 1956, p. 2774):

> I think, from the statement of facts he has presented, we have a very shocking picture of the failure of cooperation with the Congress in a field in which we have as direct a responsibility or a greater responsibility than the executive department in attempting to maintain a superiority in arms, in order that we may defend our country. It shows a great abuse of the power of classifying documents, but I cannot blame the individuals who are responsible for this matter for attempting to keep it from the American people. I hope the Senator from Arkansas and the Senate will pursue it until the whole picture is brought into the open.

Senator Jackson on the same floor discussion called for an explanation of why information was withheld from the subcommittee (Feb. 23, 1956, p. 2774, Congressional Record):

> I should like to say that now that Mr. Dulles has returned, I think it would be appropriate for him to come before our committee and explain—if he has a reason—why this information is being withheld.
>
> I shall be called upon, as will all other Members of the Senate, to vote on a large foreign-aid bill. I wish to know the facts. As one who has consistently voted for foreign aid, I believe I have a right to know the facts.
>
> Mr. Dulles is now back from his vacation; and I think it is high time that he appeared before our committee and gave us the facts, without further delay. Otherwise, he is inviting complete jeopardy of the foreign-aid program. We have no other course but to oppose requests for further foreign aid, if we are not going to get from the executive branch of the Government any more information than we have been getting.

Senator Morse pointed out the need for Congress to be informed and he stated (Congressional Record, Feb. 23, 1956, p. 2775):

> Mr. President, if the Senator from Arkansas will yield further to me, I wish to refer to several points which I think need to be reemphasized; I think some of them have already been emphasized by the Senator from Arkansas (Mr. McClellan), the Senator from Georgia (Mr. Russell), and the Senator from Idaho (Mr. Welker). I wish to point out that what our allies do in regard to supplying strategic materials to Russia happens to have a great effect on every man, woman, and child in the United States, and creates a great danger for all the American people. We cannot ignore that, and we cannot consider it separately from foreign aid.

When the Congress comes to consider the foreign-aid program this year, we shall have to take a long, hard look at its ramifications, because if we are giving foreign aid, let us say, to England, in order to build up her economic and productive power, we must determine the use to which that productive power is being put. If that productive power is to be used to manufacture machine tools which will be sent to Russia—as the Senator from Arkansas has pointed out today—then that foreign aid threatens the security of American boys, in case of another war.

Mr. President, I serve notice now that I do not intend to vote for a foreign-aid program when there is concealed from me what is happening in regard to the use to which that foreign aid is being put by alleged allies.

Mr. McCLELLAN. I agree with the Senator from Oregon.

Mr. MORSE. We have a right to know what goods foreign-aid countries ship to Russia. We are not asking for the disclosure of secrets which involve the war plans of our country, which should be kept secret—although on that point let me say that I think that in the United States we have gone a long way in keeping from the chairmen of the appropriate committees defense information which should be known to those leaders of the Senate and the House of Representatives. I believe it is silly to think that the security of our Nation is violated in some way if, for example, the chairman of the Armed Services Committee and the ranking Republican on that committee are taken into confidence; and the same is true of the Foreign Relations Committee—and I speak as a member of that committee. The same is true of the committee headed by the distinguished Senator from Arkansas.

Senator Symington likewise called attention to the direct bearing foreign aid has in relation to trade between our allies and the Communist nations. He pointed out (Congressional Record, Feb. 23, 1956, pp. 2775–2776):

May I have the attention of the distinguished Senator from Idaho (Mr. Welker)? He made a pertinent observation on the question of whether or not we were giving aid to countries which were, in effect, shipping materials made with that aid to the Communists. It is true that is what we have been doing. For example, we have given foreign aid to countries in order that they might develop copper mines. Those countries are shipping copper to the Communists, despite the fact we have not yet completed our own stockpile of copper to the point considered essential for our own security, and also despite the fact that, not too long ago, we were paying a premium price for copper on the world market as against domestic price.

I voted for some foreign aid, and shall continue to vote for some foreign aid, provided we get into the record the fact we do not intend to have that aid used, directly or indirectly, to increase the war machine of the Communists.

Does the distinguished chairman of the committee remember that at one point a Government consultant on machine

tools was asked the following question: "In other words, we can say, can we not, that we continue to embargo practically everything they do not want, and have lifted the embargo on just about everything they do want?"

Senator Ervin in the discussion posed certain questions to Senator McClellan which are set forth herein (Congressional Record, Feb. 23, 1956, p. 2776):

I should like to ask the able Senator from Arkansas if the excuse given is that disclosure of such information might reveal some transactions with a foreign nation which might be of a confidential nature. Is that correct?

Mr. McCLELLAN. Yes. I may say to the Senator that perhaps sometimes the request of the committee was so broad that it might have included documents pertaining to other countries which were of a confidential nature, but we have tried to make clear in conversations and in letters that we were not trying to get any confidential documents which related to some other country. What we have been trying to get is a list, the Battle Act list, declassified, so that we can make it public. We have been trying to get the list of items together with the recommendations made by the so-called JOC committee, so that we might make some comparisons as to how far our representatives went beyond perhaps the very liberal action which was taken when we were trying at that level to hold the line on these things.

Mr. ERVIN. That is the matter I wanted to draw attention to in my second question. I should like to ask the distinguished Senator from Arkansas if evidence taken before the subcommittee has not disclosed the fact that approximately 100 different items were recommended to be deembargoed by the JOC committee, and if the JOC committee is not entirely a committee composed of Americans operating within the departments of the Government, and if the committee has not been refused documentary evidence concerning actions of the JOC committee in making these recommendations.

Mr. McCLELLAN. Yes; our committee has been refused all those documents, and even the recommendations. I should think there would be a list of items. We have been told that there is not even a list of items that JOC considered. Of course there may not be an actual list, but certainly there is a record, because recommendations were made, and those recommendations related to some specific items.

Senator Mundt, on the other hand, while agreeing with Senator McClellan that everything should be done to halt shipments of strategic materials to the Soviet bloc, took issue on some of the conclusions drawn to the effect that the refusal to disclose information and the suppression of information was a process to hide the errors of inefficiency and bad judgment of Government officials:

Mr. President, I wish to associate myself with the chairman of the Committee on Government Operations, the Senator from Arkansas, from the standpoint of believing that our country should take every reasonable and every

proper precaution to prevent shipments behind the Iron Curtain of any materials useful to their war machine.

So that my position may be made very clear on the record, I may say that I made the motion in the Committee on Agriculture and Forestry, which was approved by the committee, to strike out of the farm bill a section which would have relaxed the arrangements whereby additional foodstuffs could be sent behind the Iron Curtain.

I did that even though I come from a farm State and despite the magnitude of the problem of surpluses, because I recognize the fact that anything that feeds an enemy is a disservice to the Republic.

Having said that, I must also say that, while I associate myself with what the chairman has said, and although I commend him, because I know he is approaching the matter on a nonpartisan basis, I am a little disturbed by some statements made during the colloquy to which I have listened, and which certainly would remind anyone of the fact that 1956 is a political year.

There is one statement which seems to need comment by me. I refer to the chairman's statement:

"Can it be, Mr. President, this classification, this policy of secrecy, this suppression or withholding of the truth, is a process or an action designed for the hiding of errors, inefficiency, and bad judgment of Government officials? I am convinced it is."

I certainly wish to dissociate myself from that conclusion. I think at the moment it is purely a political deduction.

I believe we will find out whether there is inefficiency and I think we should—and I believe we will find out whether there were errors—and I think we should—and I believe we should find out whether there was bad judgment—and I think we will find that out, too.

However, at this stage of uncompleted hearings, before we have even asked Governor Stassen to testify before us—and he should testify before our committee—I do not believe we can conclude now that there was error, inefficiency, or bad judgment. That should be something that should come at the conclusion of the hearings, not before they have actually started.

In that connection, I should like to ask unanimous consent to have printed in the Record a letter written to the committee through out distinguished chairman, on February 20, by the Acting Secretary of State, Mr. Herbert Hoover, Jr., in which he sets forth the position of the State Department and lists those items which in his opinion our committee should have in public session, those items which in his opinion the committee should have as a classified list, and those items which in his opinion might do jeopardy to our international relationships if they were made public in any way.

The letter referred to by Senator Mundt was placed in the record of the hearings and made an exhibit (p. 262); also see Congressional Record, February 23, 1956, page 2777.

Senator Ervin concluded the discussion with the following remarks (Congressional Record, Feb. 23, 1956, p. 2778):

> Mr. President, after watching the State Department encourage the Department of Commerce not to give us any information, and the Department of Commerce insisting that the State Department should not give us any information, I am inclined to the conslusion that they were actuated by the motives which actuated a teen-age couple in my section of the country. On one occasion John was at a party and was compelled by force of circumstances to see Mary home. It was the first time he had ever seen a girl home, and, when he reached her home, he said, ' Mary, do not tell any of the boys that I saw you home tonight, because they might tease me about it."
>
> She said, "You need not worry. I am just as much ashamed of it as you are."
>
> So, Mr. President, when I see the Department of Commerce insisting that the Department of State withhold information from the Congress of the United States and the American people, and the Department of State insists that the Department of Commerce do the same, I begin to suspect that they are both ashamed of what has been going on in this field.

Other selected records of congressional comment criticizing secrecy and suppression of information in the Government can be found in the following Congressional Records:

March 22, 1956: Senator McClellan, Senator Symington, pages 4740–4742.
February 21, 1956: Senator Hennings, page 2612
January 23, 1956: Senator Daniels: page 918
February 20, 1956: Congressman Brooks, page 2555
June 21, 1955: Senator Neuberger, page 7507
July 19, 1955: Senator Humphrey, page 9394
August 3, 1955: Senator Humphrey, page 11319
August 25, 1955: Congressman Moss, page A6213
May 2, 1955: Congressman Quigley, page A2942
May 2, 1955: Congressman Meader, page A2932
June 27, 1955: Senator Humphrey, page A4692
June 28, 1955: Congressman Williams, page A4703
January 16, 1956: Congressman Lane, page A326
January 24, 1956: Senator Humphrey, page A709
April 16, 1956: Congressman Baker, page A3028

OFFICIAL POSITION TAKEN BY EXECUTIVE DEPARTMENTS ON DISCLOSURE OF INFORMATION

Mr. Herbert Hoover, Jr., Under Secretary of State, was designated as a spokesman for the executive departments. Secretary Hoover presented a letter to the subcommittee (p. 262) in which he reaffirmed the position taken by the Commerce and Defense Departments and refused to give the subcommittee the documents pertaining to the JOC on any basis whatsoever. He agreed to furnish the Battle Act list and international list only on a secret classified basis behind closed doors.

This letter requires an analysis. That part which referred to the JOC papers is set forth herein as follows:

> Apart from the Battle Act list, which already has been supplied to the subcommittee on a classified basis, and the international lists referred to above, the remaining documents in the executive branch relating to East-West trade controls consist of discussions and communications of an advisory nature among the officials and employees of the executive branch, highly sensitive intelligence information, and communications with our delegation and other representatives abroad containing recommendations, information regarding the position of other governments, and comments thereon. It is contrary to the public interest that their conversations or communications or any documents or reproductions concerning such advice be disclosed. May we refer you to the position of the President on the subject in his letter of May 17, 1954, to the Secretary of Defense. We are, therefore, required to deny to this subcommittee any documents that would violate this principle.

This answer tends to becloud both the nature of the request made by the subcommittee and the nature of the documents requested. The requests for the documents were very clearly defined in letters to Vice Adm. Walter S. DeLany, Deputy Director of the Mutual Defense Assistance Control, dated February 2, 1956, and to Mr. John B. Hollister, Director of the Mutual Defense Assistance Control Act and Director of the International Cooperation Administration, dated February 16, 1956. The substance of these letters is as follows: The subcommittee requested—

> * * * the following information:
>
> (a) A list of all items recommended to be removed by JOC in 1954.
>
> (b) How many of these items were actually removed.
>
> (c) What were the items.
>
> (d) Why were they removed.

For further clarification it is pointed out that the requested documents and actions taken by JOC pertain to—

(1) Actions taken by the United States Government employees alone.

(2) The fact that the items recommended for removal and the actions taken by JOC took place before these items were reviewed abroad at COCOM and before consultation with any foreign governments or personnel took place concerning them.

(3) Testimony of Mr. Robert Martino, the Defense member of JOC, that the responsibility for the recommending for removal of the approximately 150 items rested on Mr. Herbert Blackman, Chairman of JOC.

(4) The fact that the deletion of decontrol of most of these items were recommended over the strenuous objections of Defense and other department experts, who contended that these items were highly strategic.

(5) The Strategic Control Section of the Department of Commerce, headed by Mr. Mishell George, likewise a member of JOC,

changing and altering the fact and analysis sheets of these experts before they were submitted to JOC for consideration.

As to the offer to cooperate by having the high-ranking officials appear and testify in place of those who actually performed the actions, this aspect must be more closely examined.

Herbert Hoover, Jr., Under Secretary of State

Mr. Hoover was designated as the main spokesman for the executive departments to testify for them pertaining to the revisions of the lists.

The facts: He was not the official who was charged with the responsibility for the negotiations, since he was not even Under Secretary of State at that time, and he has no firsthand knowledge of the revisions of the lists.

John B. Hollister, Director of the Battle Act and the ICA

Mr. Hollister was designated as the spokesman for the Battle Act and the International Cooperation Administration.

The facts: Mr. Hollister was not an official who was charged with the responsibility of the negotiations. He was not even appointed to this position until after the negotiations were completed. Therefore, his testimony in many respects is of a secondary nature.

Gordon Gray, Under Secretary of Defense

Mr. Gray was designated as the spokesman for the Department of Defense.

The facts: Mr. Gray was not in the Defense Department at the time JOC action was taken or negotiations held with COCOM countries on a downgrading and deletion of strategic materials from the controls list. He therefore has no personal knowledge of this situation (p. 219).

Sinclair Weeks, Secretary of Commerce

The testimony taken indicates that Mr. Weeks had no personal knowledge of the intricate details of what happened at the JOC level in 1954. He can therefore discuss this matter only in generalities and not in the detail that the subcommittee wishes to examine into. At the time the subcommittee agreed to hear information in executive session Mr. Weeks asked the chairman if he could be excused on the ground that he had no information that would be helpful to them in this field.

Harold E. Stassen, former Director, FOA, and former Battle Act Administrator

Mr. Stassen did play an integral part in the revision of the lists, both Battle Act and the international. Although he stated he was not in the Paris negotiations, he obviously had direct responsibility for these revisions.

SUPPRESSION OF JOC DOCUMENTS

In the face of these facts it is difficult to understand how the executive departments can contend that the actions of Mr. Blackman and Mr. George cannot be scrutinized by the subcommittee and that the documentary evidence of their actions cannot be examined.

The reasons advanced for the refusal to reveal information are set forth in the State Department letter of February 20, 1956, to wit: that it related to highly sensitive intelligence information and communica-

tions between delegations and certain representatives abroad containing recommendations regarding the positions of other countries. These reasons are not applicable, as they are not the documents we requested permission to examine. The subcommittee desired to examine the documents of the JOC and actions taken in this committee prior to the international negotiations.

It is reiterated that we desired to examine the actions taken by a chairman of a committee within the executive department of the United States who was delegated the authority to make recommendations prior to any international negotiations. These recommendations were made on a domestic level and by our own officials only. No other nations were involved in these decisions. No other nations were consulted on these recommendations, and it is apparent that the recommendations made by Mr. Blackman, while only advisory, had in fact the effect of a final decision made by this Government because, although the EDAC and ACEP, the Secretary of Commerce Weeks, and the Deputy Director and Director of the Battle Act had a right to review, change, and alter these recommendations, such formal review was seldom made. The records show that during the "crash review" between April 1 and May 20, 1954, ACEP and EDAC held no meetings (p. 211; see also p. 20 of this report). The subcommittee's requests for the minutes of these meetings have been denied. The positions taken by Mr. Blackman were seldom reversed with the exception of rare instances, such as where the Petroleum Logistics Section in the Defense Department made a major protest. (See p. 21, supra; p. 232 of hearings.)

As a matter of fact the subcommittee, through the chairman, Senator McClellan, stated that if the recommendations of the JOC were not final, the subcommittee would accept in lieu thereof whatever were the final recommendations of the Government. This also was refused (pp. 461–462).

SUPPRESSION OF INFORMATION OF INTERNATIONAL LISTS AND NEGOTIATIONS

The subcommittee agreed not to press for public disclosure of the United States participation in the international negotiations and agreed to take this testimony in executive session on the plea that it might disturb the delicacy of our relations with foreign nations.

The Government agencies have refused to give public information regarding the international lists on the ground that to do so would be to violate agreements made with foreign nations in the COCOM group and that these foreign nations have domestic problems with their Communist minorities who, if they knew their nation was embargoing stratetic materials to the Soviet bloc, would create great difficulties for the governments of these nations. Regarding this argument two matters should be considered.

(1) *Open publication of British list similar to international list.*—A list almost identical to the international list has been published by various nations abroad. It is a matter of public record that the Board of Trade Journal, an official organ of the British Government, on October 16, 1954, published a list under the title "Trade With the Soviet Bloc, Lists of Goods Controlled for Strategic Reasons" (exhibit 14, p. 532). This list is substantially the same as the international

list, as demonstrated by the foreword, which contains the following language:

> "For technical reasons and in order to facilitate matters for traders, some of the definitions used differ slightly from those agreed by the Coordinating Committee on East-West Trade. *In no case, however, do the amended definitions alter the scope of the controls agreed by the Coordinating Committee.*" (COCOM) [Italics ours.]

(2) *Foreign export regulations a matter of open public knowledge.*—In each of the Battle Act reports published since 1952 there is appended the export control licenses requirements of each of the nations which received economic aid from the United States; therefore it is public information that there are export controls established to comply with and conform to the Battle Act. It is well known, and a matter of public information, that the Battle Act provides that any nation shipping materials of a strategic nature to the Soviet dominated nations can have the aid coming from this country terminated.

THE COMMUNISTS KNOW WHAT STRATEGIC MATERIALS THEY CAN OBTAIN—SECURITY CLASSIFICATION ACTS ONLY TO KEEP CONGRESS AND AND AMERICAN PUBLIC IN DARK

The State Department letter of February 20, 1956, does not explicitly claim national defense security is involved in the withholding of the information as to the JOC documents. It does, however, claim that if the details of the program, referring to the international system, were revealed, it would constitute a breach of trust on the part of the United States and jeopardize the voluntary basis upon which the program rests and thus would endanger our national security.

While the validity of this reasoning and the wisdom of such an arrangement are questioned, the subcommittee has taken the position that it will not press for public disclosure of the international program.

But the question arises whether secrecy is being urged only in part for the reasons named, and whether there are other undisclosed reasons. The Battle Act Administrator has already established as a matter of public record in his "Fifth Battle Act Report" and subsequent reports that over 200 out of 450 items of strategic importance had been removed from the international list, and as was pointed out by Senator Joseph McCarthy, the information as to what items the Communists can buy from the West is constantly known to them. The Communists know what strategic materials they have received, whether it be items which were entirely deleted from the list or whether it was decontrolled in one form or another. They know what they have bought, and they know what they can buy.

It would appear therefore that the refusal to disclose this information is not a matter of national security.

SUPPRESSION OF BATTLE ACT LIST

The Battle Act list admittedly was revised on August 25, 1954, and tailored to fit the changes made in the international list on August 16, 1954 (p. 22, Fifth Battle Act Report). The Battle Act (Mutual Defense Assistance Control Act of 1951) (see Fifth Battle Act Report, pp. 39–48) prohibited the granting of aid to free foreign nations if they

engage in trade of strategic materials with the Communists. The Battle Act has never been invoked, and every violation during the past and present administration has been excused.

This indeed is one of the principal legislative aspects of this investigation: to ascertain and determine why the Battle Act has not been invoked, who was instrumental in failing to enforce its provisions, and what means and steps can be taken to preserve its function and the legislative intent from maladministration.

CONCLUSIONS

(1) The Battle Act (Mutual Defense Assistance Control Act of 1951) calls for termination of aid to nations that knowingly ship items of strategic significance to the Communist nations. The subcommittee believes the executive branch of the Government has violated the spirit, if not also the letter, of that act since its enactment in 1951. It appears that in this matter the executive branch has disregarded the clear intent of Congress.

(2) The wholesale revision of the Battle Act list in 1954, together with the corresponding removal of 200 items from the international list, demonstrates that there has been no attempt to enforce the penalty provisions of the Battle Act. On the contrary, Mr. Harold E. Stassen, as Battle Act Administrator, in effect circumvented the Battle Act by determining that items of manifest strategic significance, and which had been so regarded prior to the 1954 revision, were not strategic for purposes of allied trade with the Communist bloc.

The subcommittee concludes that either (*a*) the Battle Act should be repealed, so that the people of the United States may understand that their aid can and will be given to nations that propose to ship strategic materials to a potential enemy; or (*b*) that the Battle Act should be amended to include such safeguards as will prevent the executive departments from disregarding the declared intent of Congress to bar strategic trade with Communist nations.

(3) The Battle Act Administrator, Mr. Stassen, in 1954 misstated the facts in his Fifth Battle Act Report (p. 44), when he reported:

> Minerals and metals of basic importance to the Soviet military power, such as aluminum, copper, nickel, molybdenum, cobalt, magnesium, tungsten, and titanium remain on the embargo list.

In this and other portions of the Fifth Battle Act Report, Mr. Stassen misrepresented facts, which thus misled the Congress and the American people. Moreover, when he testified before this subcommittee, Mr. Stassen appeared to be an arrogant, evasive, and uncandid witness. The subcommittee feels that Mr. Stassen is to be severely criticized for his conduct in this matter.

(4) The United States Government, by revising the Battle Act list, and by agreeing to the downward revisions of the international strategic list, has thereby enabled our allies (principally NATO countries) to ship to the Communist bloc in Europe such highly strategic materials as copper, machine tools, electric generating equipment, electronic devices usable in atomic-energy and guided-missile fields, as well as numerous other materials of critical importance to the Communist war machine, with complete immunity from the Battle Act's penal provisions.

(5) The authority to make recommendations on the decontrol of specific strategic items was, in effect, largely relegated to low-echelon members of the Department of Commerce, State Department, Defense Department, Foreign Operations Administration, and other agencies or departments who composed the so-called Joint Operating Committee, under the chairmanship of Mr. Herbert Blackman.

(6) The opinions of experts in various fields of strategic materials, such as machine tools, electronics, metals, etc., were in many cases not accepted and therefore were shunted through the so-called Strategic Controls Section of the Department of Commerce under Mr. J. Mishell George, who admittedly altered and changed the experts' analyses of the strategic significance of the items listed, and in some instances submitted his own evaluation.

(7) There was a failure to adequately supervise, control, and review the actions of the Joint Operating Committee and its chairman in recommending the downgrading, deletion, and decontrol of items on the strategic controls list. The recommendations of the Joint Operating Committee and its chairman became substantially the position of the United States. With few exceptions, these recommendations and decisions constituted the American position at the COCOM negotiations in Paris in 1954.

(8) The Defense Department, despite its primary responsibility for providing for the defense of this country, was permitted to play a relatively minor role in the decontrol decisions. The higher echelons of the Defense Department did not take the positive and aggressive position with regard to decontrols that was clearly warranted by the gravity of the situation. The national security, defense, and military aspects of the shipment of strategic materials to the Communist bloc were not regarded with the major concern they deserved. The Defense Department's technical experts warned of the dangers to our national security that would result from decontrols, but they were not adequately supported by their superiors.

(9) All of the Government departments and agencies concerned either ignored or failed to understand the predictable consequences of the decisions to relax COCOM controls—namely, that the relaxation of the embargo on European Communist nations would invite demands to relax the embargo on the shipment of strategic materials to Communist China.

(10) The international negotiations at the Paris COCOM conferences in 1954 were conducted by subordinate officers. The American negotiators were neither technicians, engineers, nor military experts in the field of strategic materials. During the negotiations, they were evidently impressed by the economic advantages of trade rather than by the military and security aspects of such trade with a potential enemy.

(11) At no time during the course of the 1954 negotiations between the United States and other COCOM nations did the executive branch of our Government seriously use the Battle Act as a lever for persuading foreign nations to observe the then existing strategic trade embargo. In passing the Battle Act, Congress provided the executive branch with a strong bargaining position relative to enforcing an international strategic trade embargo. Concretely, the monetary value of American military and economic assistance to COCOM nations, which Congress intended under the Battle Act should be

terminated if the anti-Communist strategic embargo were not enforced, far outweighs the monetary gain the COCOM nations could expect to realize from strategic trade with the Soviet bloc.

(12) The entire story of the relaxation of the strategic trade embargo has been cloaked by an aura of secrecy not warranted by security considerations. The list of nonembargoed strategic materials has been in the realm of public information since October 1954. The list was then published by the British Board of Trade and has been available for a shilling. Moreover, the Communist nations knew what materials they purchased and could purchase. The only parties that have been kept in the dark are the Congress and the American public. The reasons advanced by the executive departments for classifying this information do not impress the subcommittee as being valid or tenable.

(13) The subcommittee cannot avoid the conclusion that the sole reason that the revised Battle Act list is classified is that its disclosure would reveal the ineffectiveness of the Battle Act as administered. The subcommittee believes that the executive branch wished to withhold from the American people the fact that foreign nations receiving aid from the American taxpayers are in turn helping the Communists to arm themselves against the United States and the free world.

(14) The executive branch endeavored to conceal and suppress facts that reveal administrative errors and negligence, such as the failure to provide for an effective review of the Joint Operating Committee recommendations.

(15) The executive departments and agencies directed and instructed their employees to refuse to testify and disclose pertinent evidence on the decontrol of strategic materials. The departments and agencies, in refusing to permit Congress to examine pertinent documents of the Joint Operating Committee and other interdepartmental committees, obstructed a duly authorized congressional investigation. The executive branch's claim of a "privilege" in these matters is unwarranted and not justified.

(16) The refusal of the executive branch of the Government to permit this congressional committee the right to examine documents pertaining to the work of the Joint Operating Committee on the ground that they were interoffice memoranda, while at the same time releasing similar interoffice memoranda of Cabinet-meeting level to a private citizen for the purpose of writing a book for his own profit, is inconsistent and irreconcilable as a matter of Executive policy, and such a position and action is without justification.

(17) The suppression of information noted in the five previous paragraphs represents a violation by the executive branch of the constitutional prerogatives of the Congress. Congress has a constitutional right to obtain all information necessary in the exercise of its legislative function. That right cannot, under our system of government, be limited or qualified by the unilateral action of the executive branch.

RECOMMENDATIONS

Disclosure of information

Congress should receive as a matter of course complete and current information on the administration of export controls, both domestic and international. Congress has the right to ascertain whether its

intent as set forth in the Battle Act has been properly implemented by the executive branch. Congress is entitled to receive whatever information is necessary to make this determination.

1. It is recommended, if this end cannot be achieved through administrative action, appropriate legislation be enacted by Congress.

2. It is recommended that prior to the further removal of items of strategic importance from the control list, specifically including any item on the present China embargo list, a list of the proposed changes be submitted, before implementation at the international level, to the congressional committees on foreign relations, armed services, and Government Operations for appropriate review.

Administration of the export control program

The conclusion reached by the subcommittee indicates a serious degree of laxity in the administration of the Battle Act. In many cases the remedies are implicit in the conclusions, but the subcommittee also makes the following recommendations:

3. It is recommended that the strategic significance and military importance of materials be given a primacy in the administration of the act.

4. It is recommended that the Department of Defense, with its responsibility for our national security, play a more active role in negotiations for revisions of export controls.

5. It is recommended that the appropriate officials of Cabinet rank take a more direct responsibility in the administration of this program.

6. It is recommended that careful attention be given to the qualifications of the staff to whom the power of reviewing the significance of materials proposed for control or decontrol is delegated. Such staffs should include personnel with proper engineering and military logistic experience.

The Battle Act

The Mutual Defense Assistance Control Act of 1951 has far-reaching implications for our foreign policy and national security. Therefore:

7. It is recommended that a thorough reevaluation of this act be made by the proper committees of Congress and also by the executive branch of the Government.

8. It is recommended that the President submit to Congress by December 31, 1956 a complete report of the views of the executive branch with respect to revisions in the Battle Act.

9. It is recommended that this report be forwarded to the proper congressional committees in whose jurisdiction revision of the act will fall.

JOHN L. MCCLELLAN, *Chairman*, Arkansas.
HENRY M. JACKSON, Washington.
STUART SYMINGTON, Missouri.
SAM J. ERVIN, Jr., North Carolina.
JOSEPH R. MCCARTHY, Wisconsin.

MINORITY VIEWS OF SENATORS KARL E. MUNDT AND GEORGE H. BENDER

Senators Karl E. Mundt and George H. Bender did not concur in the East-West Trade Report, but submitted the following minority views:

In our opinion, the report gives an entirely erroneous picture of America's East-West trade-control problems. The report is based on testimony obtained in public hearings and ignores testimony given in executive session, which necessarily creates a foundation for distortion. The result is that the conclusions are erroneous; they are not based on all the evidence; and we cannot concur.

This distortion is compounded by charging the administration with uncooperativeness and refusal to release information to the subcommittee. This is not correct. The responsible officials of the administration voluntarily testified and made available all the information possible without jeopardizing the national security. To protect our national security some of the information had to be given in executive session. This was done, however. The hearings were then abruptly discontinued before all of the evidence was received. We submit that the subcommittee has been uncooperative.

The report fails to show the very strong position our Government is taking on trade with the Soviet bloc countries. Hon. Sinclair Weeks, Secretary of Commerce, testified on March 8, 1956, that the world trade policy of the United States is to strengthen peace and maintain national security. Everything that this administration has done in our trade program has been and is based upon that objective. In its simplest terms the policy of this administration is to increase our prospects for lasting peace by strengthening our own economy and that of free world nations, while at the same time developing the maximum and overall free world world defense.

Effective as our own export controls may be, it must be recognized that no one country can by itself adequately restrict the flow of trade materials to the Soviet bloc. This restriction can be achieved only by voluntary agreement among the free world. The United States has participated with 14 other nations of the free world in the development of multilateral controls. There is no power on earth available to make these controls effective except the power of persuasion. Secretary Weeks pointed out that no single item can be placed on any international control list unless there is unanimous agreement of the 15 nations concerned. It has been the desire of everybody participating, from every agency of the United States Government, to keep these controls as extensive and inclusive as possible.

There is a substantial difference between restrictions applied to trade with the Soviets by the United States and those applied by other nations. The United States has a complete embargo on trade with Red China and Northern Korea. We also maintain an embargo, so far as Iron Curtain countries of Europe are concerned, on all items

either of strategic importance or in short supply in that area. We feel this administration should be strongly commended for this farsighted policy.

In 1953 United States economic aid to Europe was coming to a close, and we were proposing trade for a substitute for aid. Economic aid to COCOM countries in 1950 was $3 billion. This figure has been reduced year by year. In 1955 only 3 of the 10 Western Europe COCOM countries received any of this type of aid at all.

It is most unfortunate that the report has neglected to inform the American people of the very strong position our Government has taken in this very complex problem. The most effective way of opposing communism is with the maximum number of allies. The best chance of maintaining peace and avoiding the outbreak of another world war is to hold the maximum cohesion of the free world. That has been a prime consideration of President Eisenhower's policy—to keep together the maximum number of nations opposed to the Communists. The United States, under the present administration, is associated with more nations than ever before in the collective defense agreements; we have a continuing peace; and the onward march of Communist conquest has been stopped. The entire free world applauds this tremendous achievement. We feel it speaks far more eloquently of the effective policies of this administration than any committee report.

The honorable Herbert Hoover, Jr., Under Secretary of State, wrote the chairman of this subcommittee on February 20, 1956, and I quote:

> As to East-West trade controls the present international system has existed on a voluntary basis between the United States and the nations friendly to it since 1948. The group of nations participating in this system of controls does not have a formal agreement which subordinates their actions to rule by majority. The system of controls depends for its very existence on the good faith of the participating nations. Any of these nations is free to take unilateral action at any time if for any reason it does not wish to abide by the suggested control list. Cooperation, therefore, is the only way in which the objectives of effective international control of strategic materials can be accomplished. In many instances participation of a particular nation in this program has been obtained only on the specific commitment that the details of such participation would be kept secret.

The Fifth Battle Act Report, dated November 23, 1954, states on page 39 as follows:

> When the 15 governments had completed their long review and had finally agreed on the international lists, the United States Government, as an active member of the group, considered that the security interests of the United States and the free world were adequately safeguarded—especially in view of the fact that the cooperative nature of the control program had been preserved and the net reduction of commodities was accompanied by firm arrangements for stronger enforcement. Thus the corresponding revision of the Battle Act lists was made with confidence that it was a move in the best interests of the United States.

Mr. John Carter Borton, Director of the Office of Export Supply, Bureau of Foreign Commerce, Department of Commerce, when testifying on March 8, 1956, stated that in our negotiations on this East-West trade, most of the foreign nations acceded to controls under the insistence of the United States far above and beyond those which they thought were wise, reasonable, and necessary. He stated that it would not be fair to say that the fact that they considered us an ally and a friend did not weigh very heavily in the balance in our actually achieving greater success than we otherwise would. Mr. Borton testified that a very substantial measure of success was finally achieved in the international negotiations, notwithstanding the reduction in the list in August of 1954.

The resulting controls are important. There are some extremely important items that are under complete embargo with no transshipment, and everybody has respected them. These could not be controlled as effectively without voluntary cooperation of each of the Western industrialized countries. The peace of the world depends upon the solid position of the free world as a whole. To hold the European nations together and control as many items as we did, as contrasted to having the controls break up entirely, was to the net advantage of the United States.

The report unfairly criticizes actions taken by the various Government committees that were responsible for the decisions made by United States representatives at the COCOM conferences. The report deliberately fails to relate the entire program that was followed by these committees. The review of United States security export controls was carried out through ACEP. The responsibility for the security export controls of foreign countries rests with the Battle Act Administrator, who is advised by EDAC. The Joint Operating Committee simply acted at the time as a coordinating committee at the working level for these two senior advisory committees. The recommendations of JOC were first reviewed and approved or revised by ACEP and EDAC, which in turn made recommendations to the Secretary of Commerce and the Battle Act Administrator respectively, and thence to the President by way of the National Security Council.

The report tries to leave the impression that JOC was a decision-making group, when in fact it was not. Testimony reveals that JOC was a group which was organized to serve as a coordinating mechanism at the working level, and was not a decision-making organization. All of the recommendations made by JOC were made on the basis of the recommendations of at least a majority of the committee. One witness testified that during the period pertinent to this inquiry there was a high degree of unanimity. Secretary Weeks testified that no one of the Joint Operating Committee had in any degree final judgment or any final responsibility in the matter.

We would like to express ourselves now on that portion of the report which charges the executive branch with endeavoring to conceal facts and suppress information. At the very outset of this investigation all of the responsible officials of the administration indicated their availability to testify and give information in this matter. The administration recognized the right of Congress to investigate. No veil of secrecy was ever placed over these international controls, and the administration did not refuse to give the facts to the Congress and the American people. Everything the subcommittee requested,

that could properly be given in public session, was made available. Witnesses testified and documents were released for insertion in the record as well as review of the staff. In some areas it was absolutely necessary, to assure the protection of our national security, that information be furnished on a classified basis in executive session. This was recommended by the responsible officials, and again all of the information was available to the subcommittee. To make some of this information available in public session would tell the Communist nations about our strategic and short supply, reasons for control or decontrol. To some extent by so doing, we would impart to the Soviets the exact status and description of controlled items, the amounts of quotas, and the items which should be placed on the so-called watch list for intelligence reasons. We would publicize for the benefit of potential enemies the thoughts, recommendations, advice, and working papers of subordinates who worked for those in the executive branch who held and exercised action responsibility. To make some of this information public would violate our agreements with our allies and would be prejudicial to our national security interests. Most of the documents involved in the international negotiations were classified and highly sensitive and involved our relations with other governments. We had given a specific commitment to the other nations in COCOM in many instances to keep the extent of participation of a particular nation in this program secret. Of necessity, certain information could not be made available publicly. All of the above was clearly related to the subcommittee in executive session. We are surprised the majority report criticizes an American Presidential administration because it insists on fulfilling its promises.

The subcommittee over the last many months has hammered that it has been denied information in this matter. As a matter of fact, the hearings were abruptly ended at the time when it was learned that one of the responsible officials, Adm. Walter S. Delany, Deputy Director for Mutual Defense Assistance Control, International Cooperation Administration, was available to testify in executive session and give all of the additional information which the subcommittee desired, and which it claimed was being denied by the administration. Admiral Delany testified on one occasion briefly, was never recalled, and the hearings have been adjourned. He volunteered to provide much additional information, but the committee failed to provide him that further opportunity.

It has been suggested that we might have been more successful if we had used more than the power of persuasion. President Eisenhower answered that contention on December 2, 1955, as follows:

> The easiest thing to do with great power is to abuse it—to use it to excess. This most powerful of the free nations must not permit itself to grow weary of the processes of negotiation and adjustment that are fundamental to freedom. If it should turn impatiently to coercion of other free nations, our brand of coercion, so far as our friends are concerned, would be a mark of the imperialist rather than of the leader.

In view of the fact that the majority report is based only on public testimony and disregards the preponderance of information furnished, of necessity, in executive session, the validity of this report is highly questionable. No report should be submitted without first objectively

looking into all of the testimony and material available. We find that the report is replete with erroneous impressions and partisan implications. As an example, in many instances, the report fails to indicate whether or not the Soviet bloc is purchasing any of the commodities from free world countries of which the subcommittee complains. As an illustration, there is no evidence of any trade with the Soviet bloc in vertical boring mills, external cylindrical grinding machines, surface grinding machines, dynamic balancing machines, beryllium metal, zirconium, and others.

For some curious reason, the majority report persistently refuses to differentiate between items which COCOM nations are not prohibited from shipping abroad and the items which actually have been shipped. We feel certainly that to the extent our allies in COCOM have exercised internal controls and persuasion to prevent the shipment of significant items to Russia, our friends abroad deserve to be commended rather than to be subjected to the sharp criticisms of the majority report.

We submit that the report in its conclusions and recommendations is entirely misleading as to the effectiveness of international control of strategic materials. We heartily endorse the proposition that no goods of any strategic value should be the subject of trade with Communist nations. We wish it were possible to persuade friendly countries to join us in a common effort to this end. We wish every country in the free world would follow the splendid example of this Government in preventing shipments of supplies to Red China. We have made some progress, and we cannot relax our efforts now. These efforts deserve the understanding and support of all of us. They are not enhanced by partisan political attacks on the motives of those responsible for this urgently important aspect of our national survival. Unless it is recommended that the United States go it alone in resisting Communist aggression, we must strengthen rather than weaken our allies. We must confer with them as convincingly as possible—we can not coerce sovereign nations to accept our every recommendation. We regret other nations are not as realistic as the United States in restricting strategic shipments behind the Iron Curtain, but we rejoice in the fact competent American leadership and persistent persuasion has resulted in a continuation of international controls and helpful independent actions by friendly allies to the end that important curtailments continue to inpose significant restrictions on the shipments of supplies to Communist countries.

KARL E. MUNDT, *South Dakota.*
GEORGE H. BENDER, *Ohio.*

The members of the Committee on Government Operations, except those who are members of the Senate Permanent Subcommittee on Investigations, did not sit in on the hearings and executive sessions on which the above report was prepared. Under these circumstances, they have taken no part in the preparation and submission of the report, except to authorize its filing as a report made by the subcommittee.

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Calendar No. 2667

84TH CONGRESS, 2d Session | SENATE | REPORT No. 2622

POULTRY INSPECTION

JULY 18 (legislative day, JULY 16), 1956.—Ordered to be printed

Mr. CLEMENTS, from the Committee on Agriculture and Forestry, submitted the following

REPORT

[To accompany S. 4243]

The Committee on Agriculture and Forestry reported an original bill (S. 4243), to provide for the compulsory inspection by the United States Department of Agriculture of poultry and poultry products, with a recommendation that it do pass.

PURPOSE OF THE BILL

The purpose of this bill is to provide for (1) the compulsory inspection of poultry and poultry products for wholesomeness, (2) the maintenance of sanitary facilities and practices, and (3) correct and informative labeling.

HEARINGS

The Subcommittee on Agricultural Research and General Legislation conducted 3 days of hearings on compulsory poultry inspection. The hearings covered Senate bills 3588 and 3983.

Testimony heard included statements from Members of Congress, representatives of farm organizations, labor organizations, public-health officials, veterinarian groups, poultry producers and processors, officials of the Pure Food and Drug Administration of the United States Department of Health, Education, and Welfare, the United States Department of Agriculture, and others.

GENERAL STATEMENT OF CONTENTS OF THE BILL

1. This bill provides for the compulsory inspection of poultry and poultry products by the United States Department of Agriculture.

2. Ante mortem inspection may be made as deemed necessary by the Secretary.

3. Post mortem inspection shall be made of each carcass processed.

4. The bill provides for reinspection, and for quarantine and segregation under rules and regulations as prescribed by the Secretary.

5. The Secretary is authorized to designate cities or areas after public hearings. Exemptions under this section are also provided for.

6. Exemptions for poultry producers and retail dealers are provided for in certain cases.

7. Costs of inspection, except overtime, shall be borne by the United States.

8. The act shall take effect upon enactment, except that no person shall be subject to the provisions of the act, except voluntarily, until July 1, 1958.

9. Sanitary slaughtering and processing facilities and practices are provided for.

10. Correct and informative labeling is required.

11. The bill prohibits, authorizes injunctions to restrain, and provides penalties for, certain actions inconsistent with effective administration of its inspection, sanitation, and labeling requirements.

SECTION BY SECTION EXPLANATION OF BILL

Section 1 provides a short title "Poultry Products Inspection Act."

Section 2 contains legislative findings as to the necessity of the inspection and regulation provided by the act to protect interstate and foreign commerce in poultry and poultry products.

Section 3 declares the congressional policy to provide inspection of poultry and poultry products to prevent the movement in interstate or foreign commerce of "designated" cities or areas of unwholesome poultry products.

Section 4 defines terms used in the act. The definition of term "wholesome, unwholesome, and adulterated," as contained in this bill cover all points as contained in the definition of "adulteration" in the Federal Food, Drug, and Cosmetic Act.

Section 5 authorizes the Secretary of Agriculture to designate cities or areas where poultry or poultry products are handled or consumed in such volume as to affect, burden, or obstruct the movement of inspected poultry products in interstate or foreign commerce. Exemptions would also be authorized under this section. Designation would be made by notice in the Federal Register, specifying an effective date not less than 6 months after such notice.

Section 6 (a) provides for antemorten inspection as the Secretary deems necessary. Section 6 (b) requires a post mortem inspection of each carcass processed in "official establishments" processing poultry or poultry products for interstate or foreign commerce or in or for cities or areas designated under section 5. Provision is made for appeal against condemnation. ("Official establishments" are establishments at which inspection is maintained under the authority of the act.)

Section 6 (c) makes provision for reinspection of slaughtered poultry as often as the Secretary deems necessary to insure wholesomeness. Section 6 (d) makes provision for the quarantine and segregation of live or slaughtered poultry under rules and regulations as prescribed by the Secretary. Unwholesome carcasses, parts, or products are to be condemned and destroyed. Inspection is not to be made at establishments not meeting the requirements of section 7.

Section 7 requires official establishments to have premises, facilities, and equipment, and be operated in accordance with practices, required and approved by the Secretary for the purposes of the act.

Section 8 (a) requires shipping containers and individual consumer packages of poultry products inspected and found wholesome under the act to be labeled with the official inspection mark, the name of the product, the quantity, and the name and address and approved plant number of the processing plant. Individual consumer packages are required to bear, in addition, a statement of ingredients, if fabricated from two or more ingredients. The name and address of the distributor may be used in lieu of the name and address of the processor if the approved plant number is used to identify the official establishment. The Secretary may permit variation or exemption from the requirements of this subsection not in conflict with the provisions of the Federal Food, Drug, and Cosmetic Act.

Section 8 (b) prohibits false or misleading labeling. Subject to administrative and court appeal, the Secretary may direct the modification of any label so that it will not be false or misleading.

Section 9 prohibits—

(*a*) the processing, sale or offering for sale, introduction, delivery for introduction, transportation, or receiving for transportation, in interstate or foreign commerce of any poultry product not inspected and labeled in accordance with the Act;

(*b*) the sale of or other disposition for human food of any poultry or poultry product found unwholesome or adulterated under the Act;

(*c*) forgery and similar specified actions with respect to inspection certificates, marks, and devices, and misrepresentation of products as inspected;

(*d*) using in interstate or foreign commerce or in "designated" cities or areas of false or misleading labeling;

(*e*) improper use of containers bearing official inspection marks;

(*f*) refusal to permit access at reasonable times to establishments processing poultry or poultry products for interstate or foreign commerce, or in or for "designated" cities or areas;

(*g*) refusal to permit access to and copying of records as required by section 11;

(*h*) improper use, or revealing of, trade secrets;

(*i*) delivering, receiving, transporting, selling, or offering for sale or transport, in interstate or foreign commerce or "designated" cities or areas, poultry slaughtered for human food (other than poultry products as defined in the act) unless the blood, feathers, feet, head and viscera have been removed in accordance with rules prescribed by the Secretary. Transport between official establishments or to foreign countries pursuant to rules prescribed by the Secretary would, however, be permitted, provided that poultry for export complies with the laws of the importing country. This would specifically prohibit the movement of "New York Dressed Poultry" in commerce or in a designated city or area, except between plants and exemptions under Section 5 as authorized by the Secretary.

Section 10 prohibits any establishment processing poultry or poultry products for interstate or foreign commerce or in or for a "designated" city or area from processing any poultry or poultry

product except in compliance with the act. This would apparently prohibit any such establishment from processing any poultry or poultry product without inspection.

Section 11 requires carriers engaged in interstate or foreign commerce and persons shipping or receiving poultry slaughtered for human consumption or poultry products in interstate or foreign commerce or in a "designated" city or area, or holding products so received, to maintain records, and to permit access to and copying of records showing the movement in such commerce, city or area, or holding, of any such poultry or product and the quantity, shipper, and consignee thereof.

Section 12 provides for injunctions to restrain violations.

Section 13 provides penalties for violation of sections 9, 10, 11, and 18, with increased maximum penalties for second and subsequent offenses.

Section 14 provides that before institution of any criminal proceeding, the accused shall be given an opportunity to present his views.

Section 15 provides for regulations.

Section 16 provides for the exemption of poultry producers and retail dealers in certain cases.

Section 17 imposes penalties on persons exempt from other provisions of the act under section 16 from selling products known to be unwholesome and adulterated.

Section 18 (a) provides that slaughtered poultry, parts, and products thereof for import shall be subject to the provisions of this act and that after importation shall be subject to the provisions of the Federal Food, Drug, and Cosmetic Act as well as this act. This maintains the same relationship that domestic poultry, parts, and products thereof have to these acts.

Section 18 (b) authorizes the Secretary to make rules and regulations dealing with the destruction of slaughtered poultry, parts, and products thereof which have been refused admission to this country, unless these be exported by the consignee within the time fixed by rules and regulations prescribed by the Secretary.

Section 18 (c) provides that all costs, such as storage and cartage shall be paid for by the owner or consignee for slaughtered poultry, parts, and products thereof refused admission under this section.

Section 19 (a) provides for the same relationship between poultry and poultry products and the Federal Food, Drug, and Cosmetic Act as that presently existing between red meat and the Federal Food, Drug, and Cosmetic Act.

Section 19 (b) provides for cooperation between Federal and State agencies.

Section 20 provides that the cost of inspection, except overtime, shall be borne by the United States. Overtime may be paid to employees by the Secretary, but the Secretary will be reimbursed by the establishment in which the overtime occurred. This reimbursement shall be available to the Secretary without fiscal year limitation to carry out the purposes of the section. Funds for overtime work will be available without fiscal year limitation in order to permit such money to be used for the payment of overtime although such reimbursement is after the close of a fiscal year. It will provide continuity in the availability of funds to meet the overtime demands of industry at the beginning of the fiscal year. Appropriations for regular inspection will not be augmented by this provision.

Section 21 authorizes appropriations necessary to carry out the act.

Section 22 provides for separability in case any provision is held invalid.

Section 23 makes the act effective upon enactment, but provides that no person shall be subject to the act prior to July 1, 1958, unless such person applies for and receives inspection under the act. However, any person who applies for and receives inspection shall be subject to all of the provisions of the act.

ADMINISTRATION

It is the intent of the committee to allow the Secretary of Agriculture administrative flexibility with respect to designating the particular agency, division, or branch of the Department which will be responsible for the operation of the Poultry Inspection Service. The committee feels that flexibility is a prerequisite to the maintenance of a continuous and exemplary program. At the same time, however, the committee feels that in order to achieve this objective the responsibility for the program belongs in an area of related activities. The Secretary, therefore, should review the organizational structure of the Department looking toward the accomplishment of this purpose.

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Calendar No. 2668

84TH CONGRESS, 2d Session | SENATE | REPORT No. 2623

IMPLEMENTATION OF INTERNATIONAL WHEAT AGREEMENT, 1956

JULY 18 (legislative day, JULY 16), 1956.—Ordered to be printed

Mr. ELLENDER, from the Committee on Agriculture and Forestry, submitted the following

REPORT

[To accompany S. 4221]

The Committee on Agriculture and Forestry, to whom was referred the bill (S. 4221) to amend the International Wheat Agreement Act of 1949, having considered the same, report thereon with a recommendation that it do pass without amendment.

This bill would extend the International Wheat Agreement Act of 1949 to cover the International Wheat Agreement, 1956, which was ratified by the Senate on July 11, 1956. The bill is further explained in the attached request from the Department of Agriculture.

DEPARTMENTAL REQUEST

DEPARTMENT OF AGRICULTURE,
Washington 25, D. C., July 13, 1956.

The PRESIDENT OF THE SENATE,
United States Senate.

DEAR MR. PRESIDENT: There is transmitted herewith for consideration by the Congress a draft of legislation which would amend the International Wheat Agreement Act of 1949, as amended, to extend the authority contained in that act for the purpose of implementing the International Wheat Agreement, 1956, signed by Argentina, Australia, Canada, France, Sweden, the United States, and 34 wheat-importing countries.

The International Wheat Agreement Act of 1949, as amended, authorized the President, acting through the Commodity Credit Corporation, to make available, or cause to be made available, such quantities of wheat and wheat flour and at such prices as are necessary to exercise the rights, obtain the benefits, and fulfill the obligations of the United States under the International Wheat Agreements of 1949

and 1953, and to take certain other action necessary in the implementation of those agreements. Pursuant to this authority the Commodity Credit Corporation has made wheat available under the agreements by making export payments to commercial exporters for wheat and wheat flour exported to member countries of the agreement in accordance with the terms and conditions of the export payment program, and by the sale of wheat acquired by the Commodity Credit Corporation under its price support program. The rate of payment on commercial exports reflects the difference between the price of wheat on the domestic market and the selling price of such wheat under the agreement. All transactions are reported by the Department to the International Wheat Council for recording in the records of the Council as credits to the guaranteed quantity of the United States. Almost all the transactions recorded with the Council in fulfillment of the guaranteed quantity of the United States under the 1953 agreement were made through usual commercial channels of trade.

The International Wheat Agreement, 1953, by its own terms, expires on July 31, 1956. The International Wheat Agreement, 1956, was transmitted by the President to the Senate on June 12, 1956, to receive the advice and consent of that body to its ratification. The agreement submitted to the Senate would continue, with minor modifications, the 1953 agreement for a period ending July 31, 1959. Under the new agreement the guaranteed quantity of the United States is 132 million bushels for each crop year. This quantity is subject to adjustment in the event that 10 countries which did not sign the agreement within the prescribed period fail to participate through accession after the Agreement enters into force. It is expected that most of these countries will accede. The prices specified for the duration of the new agreement are $2 per bushel, maximum, $1.50 per bushel, minimum, as compared with $2.05 and $1.55, respectively, in the 1953 agreement. These prices are for a basic class of wheat at a basing point, Fort William/Port Arthur, Canada.

Upon acceptance by signatory countries by July 16, 1956, as provided in the new agreement, it will come into force in its organizational aspects on that date. This will permit the Council to take necessary action thereunder prior to the expiration of the 1953 agreement on July 31, 1956, and thus avoid any lapse in arrangements for international trade in wheat. It will come into force in its operational aspects on August 1, 1956.

It is recommended that the Congress give early consideration to the proposed implementing legislation, so that, in the event of United States ratification of the new agreement, this authority will be available not only to enable the United States to meet its obligations upon the entry into force of the new agreement, but also to secure the full benefits of the agreement, particularly those of maintaining the competitive position of United States exporters in world markets for United States wheat and wheat flour.

We also are submitting this proposed legislation to the Speaker of the House of Representatives.

The Bureau of the Budget advises that there is no objection to the submission of this recommendation.

Sincerely yours,

TRUE D. MORSE, *Acting Secretary.*

CHANGES IN EXISTING LAW

In compliance with subsection (4) of rule XXIX, of the Standing Rules of the Senate, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

INTERNATIONAL WHEAT AGREEMENT ACT OF 1949

AN ACT To give effect to the International Wheat Agreement signed by the United States and other countries relating to the stabilization of supplies and prices in the international wheat market.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act shall be known as the "International Wheat Agreement Act of 1949."

SEC. 2. The President is hereby authorized, acting through the Commodity Credit Corporation, to make available or cause to be made available, notwithstanding the provisions of any other law, such quantities of wheat and wheat-flour and at such prices as are necessary to exercise the rights, obtain the benefits, and fulfill the obligations of the United States under the International Wheat Agreement of 1949 signed by Australia, Canada, France, the United States, and Uruguay, anc certain wheat importing countries and the agreement revising and renewing the International Wheat Agreement for a period ending July 31, 1956, signed by Australia, Canada, France, the United States, and certain wheat importing countries *and the Agreement (International Wheat Agreement, 1956) further revising and renewing the International Wheat Agreement for a period ending July 31, 1959, signed by Argentina, Australia, Canada, France, Sweden, the United States, and certain wheat importing countries* (hereinafter called "International Wheat Agreement"). Nothing herein shall be construed to preclude the Secretary of Agriculture in carrying out programs to encourage the exportation of agricultural commodities and products thereof pursuant to section 32 of Public Law 320, Seventy-fourth Congress, as amended, from utilizing funds available for such programs in such manner as, either separately or jointly with the Commodity Credit Corporation, to exercise the rights, obtain the benefits, and fulfill all or any part of the obligations of the United States under the International Wheat Agreement or to preclude the Commodity Credit Corporation in otherwise carrying out wheat and wheat-flour export programs as authorized by law. Nothing contained herein shall limit the duty of the Commodity Credit Corporation to the maximum extent practicable consistent with the fulfillment of the Corporation's purposes and the effective and efficient conduct of its business to utilize the usual and customary channels, facilities, and arrangements of trade and commerce in making available or causing to be made available wheat and wheat-flour hereunder. The pricing provisions of section 112 (e) of the Economic Cooperation Act of 1948 and section 4 of the Act of July 16, 1943 (57 Stat. 566), shall not be applicable to domestic wheat and wheat-flour supplied to countries which are parties to the International Wheat Agreement and credited to their guaranteed purchases thereunder on and after August 1, 1949. and up to and including June 30, 1950. Where prices in excess of the International Wheat Agreement prices have been paid for such wheat

and wheat-flour financed by the Economic Cooperation Administration on or after August 1, 1949, and up to and including June 30, 1950, the Secretary of Agriculture or Commodity Credit Corporation is authorized to reimburse the Economic Cooperation Administration for such excess amounts. Funds realized from such reimbursement shall revert to the respective appropriation or appropriations from which funds were expended for the procurement of such wheat and wheat-flour. There are hereby authorized to be appropriated such sums as may be necessary to make payments to the Commodity Credit Corporation of its estimated or actual net costs of carrying out its functions hereunder. The Commodity Credit Corporation is hereby authorized in carrying out its functions hereunder to utilize, in advance of such appropriations or payments, any assets available to it.

SEC. 3. (a) The President is hereby further authorized to take such other action, including prohibiting or restricting the importation or exportation of wheat or wheat-flour and to issue such rules or regulations which shall have the force and effect of law, as may be necessary in his judgment in the implementation of the International Wheat Agreement.

(b) All persons exporting or importing wheat or wheat-flour or selling wheat or wheat-flour for export shall report to the President such information as he may from time to time require and keep such records as he finds to be necessary to enable him to carry out the purposes of this Act. Such information shall be reported and such records shall be kept in accordance with such regulations as the President may prescribe. For the purposes of ascertaining the correctness of any report made or record kept, or of obtaining information required to be furnished in any report, but not so furnished, the President is hereby authorized to examine such books, papers, records, accounts, correspondence, contracts, documents, and memoranda as are relevant to transactions under the International Wheat Agreement and are within the control of any such person.

(c) Any person failing to make any report or keep any record as required by or pursuant to this section 3, or making any false report or record or knowingly violating any rule or regulation of the President issued pursuant to this section 3 shall be deemed guilty of a misdemeanor and upon conviction thereof shall be subject to a fine of not more than $1,000 for each violation.

(d) Any person who knowingly and willfully exports wheat or wheat-flour from the United States, or who knowingly and willfully imports wheat or wheat-flour into the United States for consumption therein, in excess of the quantity of wheat or wheat-flour permitted to be exported or imported, as the case may be, under regulations issued by the President shall forfeit to the United States a sum equal to two times the market value at the time of the commission of any such act, of the quantity of wheat or wheat-flour by which any such exportation or importation exceeds the authorized amount which forfeiture shall be recoverable in a civil suit brought in the name of the United States.

(e) The district courts of the United States and the District Court of the United States for the District of Columbia shall have jurisdiction of violations of this Act or the rules and regulations thereunder, and of all suits in equity and actions at law brought to enforce any liability or duty created by this Act or the rules and regulations there-

under. Any criminal proceeding may be brought in the district wherein any act or transaction constituting the violation occurred. Any suit or action to enforce any liability or duty created by this Act or rules and regulations thereunder, or to enjoin any violation of such Act or rules and regulations, may be brought in any such district wherein the defendant is found or is a resident or transacts business. The remedies, fines, and forfeitures provided for in this Act shall be in addition to, and not exclusive of, any of the remedies, fines, and forfeitures under existing law.

(f) Any power, authority, or discretion conferred on the President by this Act may be exercised through such department, agency, or officer of the Government as the President may direct, and shall be exercised in conformity with such rules or regulations as he may prescribe.

(g) There are hereby authorized to be appropriated such sums as may be necessary to carry out the provisions of this section, including the necessary expenses and contributions of the United States in connection with the administration of the International Wheat Agreement.

(h) Funds appropriated under authority of this Act may be used for the purchase or hire of passenger motor vehicles, for printing and binding, for rent and personal services in the District of Columbia and elsewhere without regard to the limitation contained in section 607 (g) of the Federal Employees Pay Act of 1945, as amended, and for the employment of experts or consultants or organization thereof, on a temporary basis, by contract or otherwise, without regard to the Classification Act, at rates not in excess of $50 per diem.

(i) The functions exercised under authority of this Act shall be excluded from the operation of the Administrative Procedure Act (60 Stat. 237) except as to the requirements of sections 3 and 10 thereof.

(j) The term "person" as used in this section shall include the singular and the plural and any individual, partnership, corporation, association, or any other organized group of persons.

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Calendar No. 2669

84TH CONGRESS, 2d Session | SENATE | REPORT No. 2624

RENEGOTIATION AMENDMENTS ACT OF 1956

REPORT

OF THE

COMMITTEE ON FINANCE

UNITED STATES SENATE

TO ACCOMPANY

H. R. 11947

A bill to extend and amend the Renegotiation Act of 1951

JULY 18 (legislative day, JULY 16), 1956.—Ordered to be printed

UNITED STATES
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71006 WASHINGTON : 1956

RENEGOTIATION AMENDMENTS ACT OF 1956

REPORT

OF THE

COMMITTEE ON FINANCE

UNITED STATES SENATE

TO ACCOMPANY

H. R. 11907

A bill to extend and amend the Renegotiation Act of 1951

PRINTED FOR THE
COMMITTEE ON FINANCE
WASHINGTON, 1956

CONTENTS

		Page
I.	Purpose	1
II.	General statement	2
	(a) Two-year extension	2
	(b) Minimum amount subject to renegotiation	2
	(c) Standard commercial article exemption	3
	(d) Departments covered by the act	6
	(e) Two-year carryforward of losses	9
	(f) Reporting requirements	9
	(g) Court proceedings	11
	(h) Annual report by the Renegotiation Board	11
	(i) Subcontracts under tax-exempt organizations	12
	(j) Receipts and accruals attributable to performance before the termination date	12
	(k) Transactions between members of companies under common control	12
	(l) The net worth factor under present law	12
	(m) Conflict of interest	14
	(n) Financial results of renegotiation	15
	(o) Civil service status of Board employees	16
III.	Technical discussion of committee amendments	16
IV.	Changes in extinguishing Law	18

CONTENTS

Page

I. Purpose 1

II. General statement 2

(a) Two-year extension 2

(b) Shipping subsidy policy to remain flexible 2

(c) Statistical information required 3

(d) Depreciation covered by the act 6

(e) Two-year carryback or loss 6

(f) Reporting requirements 8

(g) Court proceedings 11

(h) Annual report by the Secretaries Board 11

(i) Subcontracts under the capital expenditure 12

(j) Bonding and security sufficient to protect Union the Government 13

(k) Termination date 14

(l) Termination between members of companies under common control 15

(m) The net worth factor under present law 15

(n) Combat of income 16

(o) Financial results of participation 16

(p) Civil service status of Board employees 16

III. Technical discussion of particular amendments 17

IV. Changes in existing law 18

Calendar No. 2669

84TH CONGRESS, 2d Session } SENATE { REPORT No. 2624

RENEGOTIATION AMENDMENTS ACT OF 1956

JULY 18 (legislative day, JULY 16), 1956.—Ordered to be printed

Mr. BYRD, from the Committee on Finance, submitted the following

REPORT

[To accompany H. R. 11947]

The Committee on Finance to whom was referred the bill (H. R. 11947) to extend and amend the Renegotiation Act of 1951, having considered the same, report favorably thereon with amendments and recommend that the bill as amended do pass.

The amendments are shown in the bill, as reported, in stricken-through type and in italic type.

I. PURPOSE

H. R. 11947 amends the Renegotiation Act of 1951, as amended, to extend the renegotiation authority for 2 years to December 31, 1958. The present expiration date is December 31, 1956. In addition, the bill incorporates the necessary amendments to carry out all but one of the recommendations of the Joint Committee on Internal Revenue Taxation made in its report on renegotiation to the Congress on May 31, 1956. This recommendation related to contracts performed abroad. Your committee believes that this bill is in fundamental conformity with the recommendations of the Joint Committee on Internal Revenue Taxation. Reducing these recommendations to specific legislation has suggested certain improvements to prevent unintended results. Changes have been made effective at the earliest practicable dates in order to enable contractors to benefit from the new provisions as soon as possible. The administration approves of all the amendments to the act provided by this bill.

90005°—57 S. Rept., 84-2, vol. 5——11

II. General Statement

(A) TWO-YEAR EXTENSION

Your committee considers an extension of the renegotiation law beyond the present expiration date of December 31, 1956, to be necessary, because we are at present in a period of semimobilization with annual defense-procurement expenditures running as high as $17 billion. (See table 1.) This level of expenditures will continue for the next 2 fiscal years. The emphasis in the current defense program on rapid technological improvement in weapons makes pricing difficult. For these reasons your committee believes that a temporary extension of the renegotiation authority is presently required, although t should not become a permanent part of the law. The bill, therefore, provides that the Renegotiation Act of 1951, as amended, be extended to apply to receipts and accruals, which are attributable to performance prior to January 1, 1959.

TABLE 1.—*Estimated breakdown of renegotiable status of Department of Defense expenditures, 1951–57*

[In millions]

	Fiscal years—						
	1951	1952	1953	1954	1955	1956 estimate	1957 estimate
Extent to which renegotiation applied	$8,039	$20,293	$29,938	$22,213	$17,546	$16,500	$16,500
Extent to which renegotiation did not apply	12,004	18,529	13,775	18,271	17,993	18,075	19,047
Total expenditures	20,043	38,822	43,713	40,484	35,539	34,575	35,547

Source: Constructed from data furnished by the Department of Defense.

(B) MINIMUM AMOUNT SUBJECT TO RENEGOTIATION

Present law provides that renegotiation will not apply to contractors or subcontractors whose receipts or accruals from renegotiable contracts for fiscal years ending before June 30, 1953, are not more than $250,000, or $500,000 for fiscal years ending on or after June 30, 1953.

Under the bill, the statutory floor below which sales may not be renegotiated is raised from $500,000 to $1 million with respect to receipts or accruals for fiscal years ending after June 30, 1956. On the basis of filings in each sales volume category experienced from 1951 to 1955 this would eliminate from renegotiation 37 percent of contractors whose sales are above the present statutory floor of $500,000. Assuming the same pattern of potential recoveries from firms in each sales volume category as that experienced from 1951 to 1955, this would eliminate 9 percent of the potential recovery of excessive profits from firms now subject to renegotiation. This analysis is based on the following table which shows the number of refund cases and the amount of refunds in the sales categories under $500,000, $500,000 to $1 million, and $1 million and over, under the 1951 act, through December 31, 1955:

Renegotiable sales	Cases		Refunds	
	Number	Percent of total	Amount	Percent of total
Under $500,000	696	30.19	$21,243,000	5.59
$500,000 to $1,000,000	599	25.99	32,340,000	8.51
Over $1,000,000	1,010	43.82	326,449,000	85.90
Total	2,305	100.00	380,032,000	100.00

Because of the substantial compliance cost, renegotiation is a serious burden on small business firms. Another consideration supporting this increase in the statutory floor is the fact that only a small portion of the renegotiation recoveries comes from firms that would be affected by the amendment. This change in the statutory floor will be a substantial aid to small business. It will in addition enable the Board to concentrate on the larger cases. There will also be some benefit to small business in the provision allowing an optional filing of financial statements in the case of contractors below the statutory floor. This is discussed in part (c) below.

Under present law subcontracts of $25,000 or more involving services such as brokerage fees and commissions are subject to renegotiation. Your committee does not recommend any change in this statutory floor.

The bill provides that upon termination of the act both of the above-mentioned statutory floors be prorated in the case of a contractor with a fiscal year overlapping the termination date.

(C) STANDARD COMMERCIAL ARTICLE EXEMPTION

Under present law a standard commercial article is exempt from renegotiation when the Board finds that competitive conditions affecting the sale of the article are such as may reasonably be expected to prevent excessive profits. Each year the Board must make such a finding on each article for which application for exemption is made. This annual finding is a great burden on the Board and represents a considerable expense to industry.

In general, a standard commercial article is defined in the act as an article which is customarily maintained in stock by the manufacturer or a dealer or which is sold by two or more persons for general commercial use. In deciding whether or not to grant the exemption, the Board must often examine the circumstances of other contractors or of an entire industry in determining if the supply of the article is used to meet a significant civilian demand as well as to fill defense orders. Your committee substitutes an entirely new mandatory exemption for standard commercial articles. Under the committee bill the test that competitive conditions must be such as will reasonably prevent excessive profits is eliminated. The elimination of the competitive-conditions test represents a considerable liberalization of the exemption provision and should enable many contractors to qualify for exemption who cannot now qualify.

Your committee has placed the standard commercial article exemption on an individual-contractor basis rather than on the basis of conditions in similar or related industries as used under present law. In lieu of the competitive conditions test the bill substitutes the requirement that a certain percentage of the dollar volume of sales of the article by a particular contractor must be made under nonrenegotiable contracts.

The bill as passed the House defines a standard commercial article as—

(*a*) An article which is customarily maintained in stock if at least 35 percent of the aggregate dollar amount of the sales of such article by the contractor during the fiscal year and the preceding fiscal year are nonrenegotiable; or

(*b*) An article covered by established price quotations (the catalog test) if at least 35 percent of the aggregate dollar amount of the sales of such article by the contractor during the fiscal year and the preceding fiscal year are nonrenegotiable.

Under the above definition, the contractor would be required to aggregate his sales for the current year and the preceding year to see if he meets the 35 percent test. This could work to the disadvantage of contractors, and your committee has amended this provision to make the aggregating optional.

Present law provides that an item which is "identical in every material respect" with a standard commercial article is also exempt. "Identical in every material respect" is defined in the present act to mean of the same kind, content, and use, without necessarily being of the same specifications. Here, too, the Board must examine articles produced by other contractors or possibly by an entire industry. Comparison with similar articles produced by other contractors has made the provision difficult to apply. The bill eliminates the "same use" test in the definition of "identical in every material respect" because it has proved to be too flexible a concept, and substitutes a "reasonably comparable price" test.

Your committee has retained the exemption for substantially identical articles but has placed this exemption on an individual-contractor basis in that the substantially identical article sold by the particular contractor must be compared with an article sold by the same contractor, which article itself qualifies as a standard commercial article.

The bill also requires that 35 percent of the aggregate dollar volume of sales by the contractor of the standard commercial article or articles and the substantially identical article or articles must, during the year, be sold under nonrenegotiable contracts.

Both the stock and catalog tests as provided in (*a*) and (*b*) above will be self-executing in that they will operate automatically without application to the Board, and with the 35 percent tests will provide definite yardsticks for establishing the exemption. This is a decided improvement over present law which has no definite yardsticks. To obtain the exemption under the substantial identity test above the contractor is required to file an application with the Renegotiation Board and the Board must take action within 3 months instead of 6 months as provided under present law.

The operation of the above stock or catalog tests may be illustrated by the following example: Assume that a company manufactures and stocks or catalogs typewriters of various models which it sells under renegotiable contracts as well as to other purchasers. If at least 35 percent of the aggregate dollar amount of sales of a particular model in the fiscal year under review and the immediately preceding fiscal year is made on nonrenegotiable orders, such item will qualify under the stock or catalog test, and the sales of typewriters of that model under renegotiable contracts during the year under review are excluded from renegotiable sales without the necessity of filing an application for exemption and obtaining the approval of the Board.

In the case of similar articles that differ only by a measurable characteristic, it is still possible under the substantial identity test that all such articles will be exempt as standard commercial articles if only one of them is a standard commercial article. Thus, if a contractor sells 50 percent of his output of 3-inch pipe and 50 percent of his output of 1-inch pipe under nonrenegotiable contracts, he may be able to obtain the standard commercial article exemption for his output of 2-inch pipe which may be sold exclusively under renegotiable contracts. It will be necessary, however, to file an application with the Board and establish that the 2-inch pipe is of the same kind and content as the other pipe sizes; that the price of the 2-inch pipe is reasonably comparable with the other prices; and that 35 percent of the combined sales of the three categories of pipe are nonrenegotiable.

In some cases the above changes in present law will tighten the standard commercial article exemption. For example: Assume a contractor's total sales in a given fiscal year and the preceding fiscal year of an article which is stocked are $10 million of which $3,400,000 is sold under nonrenegotiable contracts. Under present law he could obtain an exemption if the Board made a finding that "the competitive conditions are such as will reasonably prevent excessive profits." Under the bill the article would not qualify under either the stock or catalog tests because the contractor did not sell 35 percent to purchasers other than under renegotiable contracts. He may qualify nevertheless by filing an application with the Board if the article is substantially identical with another article which he manufactures and which does qualify as a standard commercial article if by combining the total sales of both articles in the year under review he can show that of this total at least 35 percent represents sales that are not covered by renegotiable contracts. If he did not manufacture another article qualified as a standard commercial article then he could under no circumstances obtain an exemption for his renegotiable sales of the article, although he might obtain the exemption under present law.

It has been brought to the attention of your committee that, under the House bill, contractors would be required to segregate their sales on an individual article basis to meet the above substantially identical test. This might occasion considerable expense, and in some cases would be impractical or perhaps impossible because a contractor might sell thousands of separate articles and might not maintain detailed sales records for each article. Your committee, therefore, has provided an amendment whereby a contractor can obtain the exemption for two or more articles if at least one of the articles is

customarily maintained in stock or offered for sale in accordance with regularly maintained price schedules and all of such articles are of the same kind and manufactured of the same or substitute materials. In addition, all of such articles must be sold at reasonably comparable prices and at least 35 percent of the aggregate receipts or accruals from the sales of all such articles in the fiscal year are from nonrenegotiable contracts. It is further provided that this exemption applies only if the contractor at his election files at such time and in such form and detail as the Board shall by regulations prescribe an application containing such information and data as may be required by the Board. A determination must be made by the Board within a period of 6 months from the date of such filing.

By agreement between the contractor and the Board, the 3-month or the 6-month period within which the Board must act on a contractor's application may be extended.

Under present law, a contractor is entitled to waive the standard commercial article exemption if he so desires. The House bill did not provide for a waiver. Your committee is of the opinion that this would work a hardship on contractors who might want to waive the exemption because of the expense involved in developing such information as may be required to establish the exemption. Your committee's bill therefore provides that any contractor or subcontractor may waive the exemption with respect to receipts or accruals in any fiscal year from sales of any article or service by so indicating in the financial statement filed by him for such fiscal year pursuant to section 105 (e) (1), without necessarily waiving such exemption with respect to receipts or accruals in such fiscal year from sales of any other article or service. A waiver, if made, shall be unconditional, and no waiver may be made without the permission of the Board for any receipts or accruals with respect to which the contractor or subcontractor has previously filed an application for exemption.

To the extent appropriate, corresponding changes have been made in the standard commercial service exemption. The principal change is a 35-percent test.

The bill provides that the above changes be effective for fiscal years ending after June 30, 1956. The bill also provides for the suspension of the standard commercial article and service exemptions in the case of a future national emergency either proclaimed by the President or declared by the Congress. It would be in such periods in particular that we could expect to find shortages and lack of competition at numerous points in the economy, which might lead to excessive profits even in the sale of such articles or services.

(D) DEPARTMENTS COVERED BY THE ACT

Section 103 of the Act provides that contracts with certain agencies shall be subject to renegotiation, and that contracts with other agencies may be made subject to renegotiation if so designated by the President. The named and designated Departments together with the respective applicable dates are as follows:

Named in the act:
- Department of Defense
- Department of the Army
- Department of the Navy
- Department of the Air Force
- Department of Commerce
- Panama Canal Company
- Canal Zone Government
- General Services Administration
- Atomic Energy Commission
- Reconstruction Finance Corporation
- Housing and Home Finance Agency

Designated by the President:

July 1, 1951:
- Federal Civil Defense Administration
- National Advisory Committee for Aeronautics
- Tennessee Valley Authority
- Treasury Department
  - United States Coast Guard

October 1, 1951:
- Defense Materials Procurement Agency
- Interior Department
  - Bureau of Mines
  - United States Geological Survey

November 1, 1951:
- Interior Department
  - Bonneville Power Administration

July 1, 1952:
- Interior Department
  - Bureau of Reclamation

October 1, 1954:
- Federal Facilities Corporation

Table 2 is a compilation of the number of contracts entered into and the dollar amount of such contracts for the fiscal years 1951 through 1955. This table includes all of the departments and agencies covered by the act with the exception of the Reconstruction Finance Corporation and the Federal Facilities Corporation, for which there are no available data, and the Defense Materials Procurement Agency, which entered into no contracts subject to renegotiation.

TABLE 2.—*Number of contracts and amount thereof entered into by departments and agencies as provided by the 1951 Renegotiation Act or Executive order*

[Dollar figures in thousands]

	Fiscal year—					Total 1951–55
	1951	1952	1953	1954	1955	
Department of Defense (Army, Navy, and Air Force):						
Number of contracts	----------	114,993	93,125	75,596	76,589	360,303
Total value of contracts	$30,785,000	$41,248,000	$28,394,000	$11,563,000	$14,752,000	$126,742,000
United States Atomic Energy Commission:						
Number of contracts	1,020	17,906	21,975	15,418	15,068	71,387
Total value of contracts	$1,242,292	$1,101,797	$2,739,515	$1,700,191	$904,377	$7,688,172
Department of Commerce:[2]						
Number of contracts	799	702	565	260	259	2,468
Total value of contracts	$162,994	$239,164	$120,859	$65,526	$72,244	$664,754
Tennessee Valley Authority:						
Number of contracts	36,000	40,000	40,500	39,154	31,823	187,477
Total value of contracts	$200,771	$233,642	$103,512	$39,282	$25,159	$602,467
Bonneville Power Administration (Interior Department):						
Number of contracts	125	494	350	254	348	1,571
Total value of contracts	$12,749	$30,318	$24,340	$14,240	$16,556	$98,203
National Advisory Committee for Aeronautics:						
Number of contracts	----------	25,616	17,358	2,338	2,580	47,892
Total value of contracts	----------	$37,067	$56,943	$13,144	$16,198	$103,352
Bureau of Reclamation (Interior Department):						
Number of contracts	5,008	7,196	8,875	7,705	8,161	36,945
Total value of contracts	$73,752	$72,216	$20,531	$20,186	$13,967	$200,652
General Services Administration:						
Number of contracts	1,408	209	376	29	34	2,056
Total value of contracts	[1] $263,767	[1] $41,524	$32,550	$4,796	$8,573	$351,210
United States Coast Guard[2] (Treasury Department):						
Number of contracts	337	420	260	213	229	1,459
Total value of contracts	$21,192	$21,464	$10,640	$22,288	$8,162	$83,746
The Panama Canal Company and Canal Zone Government:						
Number of contracts	7	15	20	29	71	142
Total value of contracts	$2,523	$12,279	$2,560	$7,011	$2,972	$27,345
Housing and Home Finance Agency:						
Number of contracts	247	194	234	126	32	833
Total value of contracts	$14,356	$36,505	$34,105	$8,667	$2,659	$96,292
Bureau of Mines (Interior Department):						
Number of contracts	93	85	83	132	109	502
Total value of contracts	$3,749	$4,930	$3,685	$4,243	$2,086	$18,693
Geological Survey (Interior Department):						
Number of contracts	90	97	100	125	64	476
Total value of contracts	$3,875	$4,348	$2,907	$2,614	$1,259	$15,003
Federal Civil Defense Administration:						
Number of contracts	5	41	23	31	47	147
Total value of contracts	$124	$288	$74	$116	$248	$851
Number of contracts	----------	----------	----------	----------	----------	713,658
Total value of contracts	----------	----------	----------	----------	----------	$136,692,740

[1] Includes only those contracts estimated to have a total cost in excess of $25,000.
[2] Does not include contracts under the amount of $10,000.

Source: Departments and agencies covered.

With the exception of contracts with the Departments of Defense, Army, Navy, Air Force and Commerce (Maritime Administration and the Federal Maritime Board only), the Atomic Energy Commission, and the General Services Administration, most of the contracts entered into are for articles of standard specifications. Furthermore, the number of defense contracts entered into by these other

agencies and the dollar value involved has been steadily decreasing, as can be seen from the above table.

The bill eliminates all but the above eight agencies from the provisions of the act.

The bill also provides that in a period of a future national emergency proclaimed by the President or declared by the Congress, the President is authorized to designate for such period any department or agency exercising functions having a direct and immediate connection with the national defense that he considers should be covered by the renegotiation statute.

(E) TWO-YEAR CARRYFORWARD OF LOSSES

The present law provides a 1-year carryforward of losses on renegotiable contracts.

Complaints have been received that this 1-year carryforward provision is too limited. Inadequate pricing information, production difficulties, or other unforeseen contingencies may cause contractors to sustain losses for more than 1 year before realizing a profit on renegotiable business. Under present law, the only loss which may be taken into account in the profit year is the loss sustained in the year immediately preceding the profit year. A part of the remaining profits may be recovered by the Government as excessive even though the contractor has not recouped the losses sustained in earlier years on renegotiable business.

In other situations the loss sustained in a particular year may be greater in amount than the profit realized in the next year. Because of the 1-year limitation on the carryforward of losses the unabsorbed portion of the loss is not available to the contractor as an offset in any later year in which he may realize excessive profits.

The bill provides for losses to be carried forward for 2 succeeding years. If a contractor sustains losses for 2 consecutive years, the losses of both years may be offset against the profits of the third year. If a contractor has a loss the first year, profits in the second year, and profits in the third year, the loss would first be reduced by the profits of the second year before being carried forward and applied against the profits of the third year. Generally, the effect of this provision is to allow losses sustained in 1954 and later years to be carried forward 2 years.

Losses sustained on renegotiable business after the fiscal year under review may not be carried back to that year under the provisions of present law. Your committee's bill makes no change in this respect. A provision for a carryback allowance of subsequent losses would produce uncertainty and administrative difficulties.

(F) REPORTING REQUIREMENTS

Under the present law and regulations, if a contractor's renegotiable sales are below the statutory floor, he is required to file a statement of nonapplicability. This form requires the contractor to state, if applicable, that his renegotiable business was under the statutory floor ($500,000 sales or $25,000 commissions, etc.). The contractor need not show his actual figure of renegotiable sales although he is required to name other firms which he controls, which control him, or which are under common control with him. In

addition, the form calls for the firm's gross receipts and the status of its standard commercial article exemption claim.

The bill eliminates this filing requirement but provides that a contractor may, at his option, make an appropriate filing, and if within 1 year no action is taken by the Board, renegotiation is permanently foreclosed in the absence of fraud or malfeasance or willful misrepresentation of a material fact. This option will enable the contractor to obtain a final settlement of his renegotiation status. Contractors whose renegotiable sales exceed the statutory floor of $1,000,000 will still be required to file a financial statement.

The present law provides a 1-year period of limitations for the commencement of renegotiation proceedings, dating from the filing of a financial statement, as well as an additional 2-year period of limitations for the completion of such proceedings. The bill provides that these limitation periods will run in the absence of fraud, malfeasance, or willful misrepresentation of a material fact.

Under present law, a contractor whose contracts are subject to renegotiation is required to file a financial statement with the Renegotiation Board on or before the first day of the fourth month following the close of his fiscal year. Your committee's bill has extended this to the fifth month following the close of the fiscal year so that contractors would have at least 6 weeks after filing their income tax returns in which to assemble the necessary data.

Table 4 shows the total number of filings by contractors under the 1951 act through December 31, 1955. A filing can cover the results from one or hundreds of contracts. The table shows that there were filed with the Renegotiation Board a total of 144,161 cases. Of these 127,841, or 88.7 percent, were eliminated from consideration either because they were under the statutory minimum or because they were screened out on the ground that the report showed no excessive profits. There were 17,187 cases, or 11.9 percent, of the total actually assigned to the regional boards for examination. Of this number 3,215 had not been completed as of December 31, 1955; 11,667 had been cleared; and 2,305, or 1.6 percent of the original filings, had been found to have excessive profits.

TABLE 4.—*Total filings and their disposition through Dec. 31, 1955*

		Number	Percent
Total filings received by the Board through Dec. 31, 1955		144,161	100.00
Less:			
(1) Number below $500,000 statutory minimum	103,441		
(2) Number screened out (obviously no excessive profits)	24,400		
		127,841	88.7
Number remaining for assignment to the Regional Boards		16,320	11.3
Assignments made without filings and other special cases		867	
Total assignments to the Regional Boards		17,187	11.9
Assignments:			
(1) Not completed as of Dec. 31, 1955		3,215	2.2
(2) Completed as of Dec. 31, 1955		13,972	9.7
(3) Cleared or otherwise disposed of		11,667	8.1
(4) Resulting in determination of excessive profits		2,305	1.6

Source: Renegotiation Board.

(G) COURT PROCEEDINGS

Your committee believes that the present appellate procedure in renegotiation cases should in general be retained. The Tax Court should remain the final authority on the question of the amount of excessive profits and its judgment on this point should not be reviewed by the appellate courts.

A question has arisen as to whether or not it was the original intention of the Congress that an order of the Renegotiation Board should be stayed during a review proceeding only where a bond is filed with the Tax Court. Section 108 of the act is amended by your committee to make it clear that such a bond is required to stay an order of the Board. The amendment would be retroactive to 1951.

The bill also provides that a decision in the Tax Court under section 108 of the act may, to the extent subject to review, be reviewed by the United States Court of Appeals for the circuit in which is located the office to which the contractor made his Federal income tax return, or if no return was made, then by the United States Court of Appeals for the District of Columbia or any United States Court of Appeals stipulated by the Attorney General and the contractor. Under present law and court decisions the contractor can obtain review only by the United States Court of Appeals for the District of Columbia, which your committee believes causes unnecessary expense and travel for contractors located a considerable distance away from Washington.

(H) ANNUAL REPORT BY THE RENEGOTIATION BOARD

Under present law the Renegotiation Board is not required to make an annual report to the Congress. Your committee believes that an annual report to the Congress should be made by the Board and the bill so provides. The Renegotiation Board concurs in this recommendation because it will afford the Board an opportunity which it does not now have to present to the public facts and figures on its operations. This report should include, but not be limited to, the following:

1. The personnel of the Board and each regional board.
2. The administrative expenses.
3. The number of filings by sales volume during the year for—
   (*a*) Those screened out.
   (*b*) Cases renegotiated.
   (*c*) Number and amount of refunds.
4. The number of pending cases.
5. The changes made in the regulations.
6. Improvements made in procedure.
7. The renegotiation cases in the Tax Court and higher courts and their disposition.

Most of the matters listed above could be readily furnished by the Board under its present recordkeeping system. Such a report would be of great aid to Congress in examining the operation of renegotiation under the recommended extension, particularly the effect of the proposed amendments.

The bill provides that the first annual report cover the activities of the Board for the fiscal year ended June 30, 1956, and be filed by January 1, 1957. Thereafter the report will be filed by January 1 of each succeeding year covering the activities for the preceding fiscal year.

(I) SUBCONTRACTS UNDER TAX-EXEMPT ORGANIZATIONS

Under the present act any contract or subcontract with a tax exempt organization and any contract with a nontaxable organization is exempt from renegotiation. The present law also exempts any subcontract under an exempt contract or subcontract described in the preceding sentence. The exemption of subcontracts under such exempt contracts or subcontracts affords an undue advantage to commercial enterprises which supply materials or services to such organizations. The bill provides, therefore, that the exemption of these subcontracts be removed effective as to subcontracts made after June 30, 1956.

(J) RECEIPTS AND ACCRUALS ATTRIBUTABLE TO PERFORMANCE BEFORE THE TERMINATION DATE

The present act does not prescribe treatment for the receipt or accrual, after the termination date of the act, of amounts attributable to performance prior to the termination date, although such amounts are renegotiable. The bill provides that receipts and accruals attributable to performance before the termination date be considered to have been received or accrued not later than the termination date. This provision will enable all pre-termination performance of the contractor to be renegotiated in the fiscal year in which the termination date occurs and will make it unnecessary to conduct separate renegotiation proceedings with respect to each subsequent fiscal year in which the contractor receives or accrues amounts attributable to performance prior to the close of the termination date. A similar provision was contained in the World War II renegotiation law.

(K) TRANSACTIONS BETWEEN MEMBERS OF COMPANIES UNDER COMMON CONTROL

The bill amends section 105 (f) (3) so as to provide that fees or commissions received by an agent or broker from principals under common control with him are not to be eliminated in determining whether the group has exceeded the $25,000 floor prescribed in section 105 (f) (2) for any fiscal year ending on or after June 30, 1956. It is believed to be consistent with the separate renegotiability of commissions and fees that these transactions should retain their identity even where they are made between members of the related group. At the present time, such amounts must be eliminated and thus often escape renegotiation, leaving the Board with the sole and unsatisfactory alternative, where renegotiation is not conducted on a consolidated basis, of evaluating such commissions in the renegotiation of the principal, if the principal is renegotiable and possibly disallowing some portion thereof as unreasonable costs.

(L) THE NET WORTH FACTOR UNDER PRESENT LAW

There has been concern that the application of the net worth factor by the Renegotiation Board has not been consistent with the intent of the statute. While this factor is only one of several factors to be taken into account in determining the reasonableness of profits, the contention has been made that return on net worth has been over-

emphasized and applied in such a manner as to place an arbitrary ceiling limitation on the amount of allowable profits. It has been suggested that this factor be eliminated from the act.

It is pertinent to these industry arguments that the Board under date of February 14, 1956, issued the following press release elaborating on its use of the net worth factor:

THE RENEGOTIATION BOARD

WASHINGTON, D. C.

For immediate release
February 14, 1956

Release No. 1-56
Republic 7-7500, Ext 4131

STATEMENT ON NET WORTH FACTOR

Because some misunderstanding apparently exists in certain quarters respecting the Renegotiation Board's interpretation and application of the so-called net worth factor (sec. 103 (e) (2) of the Renegotiation Act of 1951, as amended), the Board today issued the following statement.

Section 103 (e) (2) of the act provides that the Renegotiation Board shall, in determining excessive profits, take into consideration: "The net worth, with particular regard to the amount and source of public and private capital employed * * * ." In discharging its responsibility under this section, the Board does not regard any particular rate of return on net worth or capital employed as excessive per se. The Board does not attempt to equalize its determinations respecting the members of any given industry from the standpoint of return on net worth or capital employed, inasmuch as renegotiation obviously is not a ratemaking process. The Board does not place special emphasis on the net worth and capital-employed factor as distinguished from the other statutory factors.

The Board desires to reemphasize the fact that reasonable profits are determined in every case by an overall evaluation of all the statutory factors, and not by the application of any fixed formula with respect to rate of profit on sales or rate of return on net worth or capital employed, or any other formula. That is not to say, however, that the return on net worth can properly be ignored in an appropriate case. Excluding those industries where capital is not a significant income-producing factor, the relationship of profit realized on renegotiable business to the capital and net worth employed in renegotiable business is, and properly should be, one of the considerations (though not the sole consideration) in the final determination of excessive profits. The Board's determinations must permit the retention of profits sufficient to provide a proper incentive for the investment of equity capital. Where borrowed capital is involved, the retained profits must reflect the additional risk to which equity capital is thereby subjected.

With respect to contractors who receive Government financial assistance, the regulation under the 1951 act

[RBR 1460.11(4)] expresses a basic policy which was first enunciated under the 1943 Renegotiation Act (RR 412.2) and again under the 1948 Act [MRR 424.412–2(d)(1)]: "A contractor who is not dependent upon Government or customer financing of any type is entitled to more favorable consideration than a contractor who is largely dependent upon these sources of capital. When a large part of the capital employed is supplied by the Government or by customers, the contractor's contribution tends to become one of management only and the profit will be considered accordingly."

An example of the application of the foregoing policy is to be found in a case where an increase in Government-furnished facilities enables a contractor to achieve substantially expanded volume for defense purposes. In such a case there will often be a significant increase in contractor's rate of return on net worth over the immediately preceding years, which generally will evidence in a concrete way the effect of increased volume and increased Government assistance. Certainly the Board must consider this fact, together with all other relevant factors, in determining whether contractor's profit on the expanded renegotiable sales bears a reasonable relationship to the expanded volume. End release.

Your committee has retained the net worth factor contained in section 103 (e) (2) of the act on the assumption that in determining excessive profits no special emphasis is given to net worth and capital employed as contrasted with the other statutory factors, and that in determining excessive profits no ceiling is placed on the rate of return on net worth or capital employed.

(M) CONFLICT OF INTEREST

Under section 113 of the act, employees of the Board and the Departments through December 31, 1953, the original termination date of the act, were relieved from certain conflict of interest provisions applicable to Government employees generally. The provisions in question preclude employees, during their employment, from agreeing to act or acting as agent or attorney, or otherwise assisting, in the prosecution of claims against the Government, and also preclude employees of executive departments for a period of 2 years following the termination of their employment, from so acting with respect to any such claims pending during their employment. When the act was first adopted it was considered necessary to exempt such personnel from these restrictions in order to make it possible to obtain employees of the caliber required for the defense effort. This is still true. Accordingly, the bill provides that this provision be extended to cover employment in the Departments or the Board at any time. Section 113 contains a further provision which, in effect, permanently bars any person employed in the Board or a Department through December 31, 1953, after leaving such employment, from handling any subject matter directly connected with his former employment. The change recommended above would have the effect of imposing this prohibition upon persons employed by the Board or the Departments at any time. Without this provision, employees

would be barred for only 2 years (by another provision of law) from handling any such case. The bill does not change the provision of section 113 which prohibits any employee of the Board or a Department from prosecuting a claim against the United States while he is an employee.

(N) FINANCIAL RESULTS OF RENEGOTIATION THROUGH 1955

Table 3 shows the disposition of the assignments through December 31, 1955, in which the Board actually found excessive profits. Of the 2,305 cases, the renegotiable sales amounted to $11,278 million, and $380 million of excessive profits were determined. Part (B) of this table is an attempt to determine as far as possible the net recoveries to the Government made by the Renegotiation Board and from voluntary refunds and price reductions made to the Government. The table shows that net recoveries by the Board were $115 million, and that net recoveries from voluntary refunds and price reductions amounted to $92 million, a total of $207 million. The voluntary refunds and price reductions recorded here are only those made in cases where the contractor was actually renegotiated. The amount of voluntary refunds in cases where the contractors were screened out of renegotiation is not known. It should also be pointed out that these figures cannot be taken as absolute net recoveries because no allowance has been made for the tax deductible expenses incurred by the contractors in keeping records, segregating sales, and the like, in connection with renegotiation.

TABLE 3.—*Disposition of assignments through Dec. 31, 1955, resulting in excessive profits and the net effect of voluntary refunds and recoveries by the Renegotiation Board since enactment of the 1951 act*

A. NUMBER OF DISPOSITIONS, THEIR SALES AND EXCESSIVE PROFITS DETERMINED BY THE BOARD[1]

Type	Number	Renegotiable sales involved (in millions)	Excessive profits determined (in millions)
By agreement	2,195	$10,051	$352
By order	110	1,296	28
Total	2,305	11,278	380

B. NET RECOVERIES BY THE RENEGOTIATION BOARD AND NET RECOVERIES THROUGH VOLUNTARY REFUNDS AND PRICE REDUCTIONS TO THE GOVERNMENT[2]

			In millions
(1)	Gross recoveries by Renegotiation Board		$380
	(a) Less: Tax effect [3]	$247	
	(b) Administrative expenses	18	
(2)	Total offsets on gross recoveries		265
(3)	Net recoveries by the Board		115
(4)	Gross recoveries from voluntary refunds and price reductions to the Government		263
	(a) Less: Tax effect [3]		171
(5)	Net recoveries from voluntary refunds and price reductions		92
(6)	Total net recoveries by the Board and from voluntary refunds and price reductions to the Government (3)+(5)		207

[1] Source: Renegotiation Board.
[2] Source: Data on gross sales and recoveries, Renegotiation Board.
[3] Based on analysis by Internal Revenue Service.

(o) CIVIL SERVICE COVERAGE OF BOARD EMPLOYEES

Under the present law, employees of the Renegotiation Board are not covered by civil-service laws and regulations, although they are under the Classification Act of 1949. Your committee's bill amends the present law to place Board employees under the civil-service laws and regulations as well as the Classification Act of 1949.

III. Technical Discussion of Committee Amendments

(For a technical discussion of the bill as passed by the House, see pt. III of H. Rept. No. 2549)

SECTION 5. FILING OF FINANCIAL STATEMENTS

The present act provides that persons holding contracts and subcontracts to which this title applies shall file a financial statement on or before the first day of the fourth calendar month following the close of the fiscal year. Under its regulatory authority the Board has granted a blanket extension to the first day of the fifth month. To conform the statute to current practice, the act is amended to require such statements by the first day of the fifth month but no doubt is cast upon the Board's previous use of its general authority.

SECTION 1. STANDARD COMMERCIAL ARTICLES OR SERVICES

(*a*) *Classes of articles*

Your committee has added a new paragraph (2) to section 106 (e) of the act as amended by the House bill, providing an exemption from renegotiation for a "standard commercial class of articles." A definition of this term is provided by paragraph (4) (G) also added by your committee. In view of the generality of this provision the special rule contained in paragraph (3) of the House bill has been eliminated as unnecessary.

Under the committee amendments an exemption is provided for all articles comprising a class of articles if four conditions are met. The first condition is that at least one of the articles must be either maintained in stock or sold in accordance with a regularly maintained price schedule. Secondly, it is required that all of the articles be of the same kind and be manufactured of the same or substitute materials without necessarily being of identical specifications. Thirdly, all of the articles must be sold at reasonably comparable prices. Finally, at least 35 percent of the dollar volume of the contractor's sales in the fiscal year of the articles taken together must be nonrenegotiable without regard to this subsection or section 106 (c).

The concept of "maintained in stock" or "offered for sale in accordance with a price schedule regularly maintained" has the same meaning as in the case of the definition of a standard commercial article. The requirements of "same kind," "manufactured of the same or substitute materials," and "reasonably comparable prices" have the same meaning as in the case of articles claimed to be identical in every material respect with a standard commercial article. With respect to the requirement of "reasonably comparable prices," the House report indicated that price comparisons were of little value if

the contractor made negligible sales of articles whose prices were crucial to the comparisons. This indication will not be relevant to the operation of the class exemption under your committee's bill since it is contemplated that such classes will include articles for which sales breakdowns of the constituent articles are not available. However, it is contemplated that the contractor will be required to establish, without resort to cost analyses, that his comparisons of prices for articles within a class are reasonable. The test of 35 percent of the aggregate receipts or accruals also has the same meaning as in the case of articles claimed to be identical in every material respect with a standard commercial article.

The significance of the committee language is that a group of articles may be exempted from renegotiation even though the contractor does not maintain sales records on the individual articles comprising the group. Under the House bill language was provided to make possible the exemption of a class of articles but the House bill was so written that the contractor had to isolate sales records on at least one article in the class in order to establish a standard commercial article.

(*b*) *Filing of applications*

Your committee has amended the House bill by providing slightly different rules dealing with the filing of applications for exemption of an article identical in every material respect with a standard commercial article and by providing rules for the filing of an application for exemption of a standard commercial class of articles. In the case of an application for an article claimed to be identical in every material respect with a standard commercial article, the only change from the House bill would provide that by mutual agreement the 3-month period which the Board has to act on the application may be extended. The rules for filing an application for a standard commercial class of articles are the same as for an article identical in every material respect with a standard commercial article, except that the Board is given a 6-month period in which to act upon the application. This period may also be extended by mutual agreement.

(*c*) *Sales of preceding year*

Under the House bill an article may be a standard commercial article if it is either maintained in stock or sold from a price schedule, but only if at least 35 percent of the dollar sales of the article in the current fiscal year and the preceding fiscal year are nonrenegotiable. Under your committee's amendment this language is modified to provide that an article may qualify if it meets the 35 percent test either with respect to its sales of the current fiscal year or with respect to its combined sales in the current and preceding fiscal years.

(*d*) *Waiver of standard commercial article exemption*

The House bill removed the specific provision for a waiver of the standard commercial article exemption which is provided in the present act. This elimination had significance only in the case of that part of the exemption which did not require an application to the Board, since the making of any such applications was left specifically to the election of the contractor or subcontractor.

The new subsection (e) (5) added by your committee to section 106 of the act restores the waiver provision substantially as contained

90005°—57 S. Rept., 84–2, vol. 5——12

in the present act. The contractor or subcontractor may waive the exemption provided by section 106 (e) with respect to receipts or accruals in the fiscal year with respect to any article or service. This does not exclude use of the exemption with respect to other articles or services in the same year, but the exemption may not be taken for only a part of the sales of one article or service during the year. The waiver may be exercised by a statement to this effect in the financial statement for the year.

Two limitations on the waiver are provided which are not contained in present law. No waiver may be made which is conditional upon Board action with respect to other articles. Further, if the contractor once files an application for exemption under this subsection, he may not thereafter waive the exemption except with the consent of the Board.

SECTION 10. APPLICATION OF CIVIL-SERVICE LAWS

Under the present act, employees of the Renegotiation Board are appointed subject to the Classification Act of 1949 but without regard to the civil-service laws and regulations. Your committee added a new section 10 to the bill which provides that personnel of the Board shall be subject to both the Classification Act of 1949 and the civil-service laws and regulations.

TECHNICAL AMENDMENTS

The reported bill contains several clerical and conforming amendments. The reported bill also contains, in section 5, an amendment to the second sentence of section 105 (c) of the act to make such second sentence consistent with the first sentence of such section 105 (c), as amended by the bill.

IV. Changes In Existing Law

In compliance with subsection 4 of rule XXIX of the Standing Rules of the Senate, changes in existing law made by the bill are shown as follows (existing law proposed to be omitted is enclosed in black brackets; new matter is printed in italic; existing law in which no change is proposed is shown in roman):

THE RENEGOTIATION ACT OF 1951

To provide for the renegotiation of contracts, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Renegotiation Act of 1951".

TITLE I—RENEGOTIATION OF CONTRACTS

SEC. 101. DECLARATION OF POLICY

It is hereby recognized and declared that the Congress has made available for the execution of the national defense program extensive funds, by appropriation and otherwise, for the procurement of prop-

erty, processes, and services, and the construction of facilities necessary for the national defense; that sound execution of the national defense program requires the elimination of excessive profits from contracts made with the United States, and from related subcontracts, in the course of said program; and that the considered policy of the Congress, in the interests of the national defense and the general welfare of the Nation, requires that such excessive profits be eliminated as provided in this title.

SEC. 102. CONTRACTS SUBJECT TO RENEGOTIATION.

(a) IN GENERAL.—The provisions of this title shall be applicable (1) to all contracts with the Departments specifically named in section 103 (a), and related subcontracts, to the extent of the amounts received or accrued by a contractor or subcontractor on or after the first day of January 1951, whether such contracts or subcontracts were made on, before, or after such first day, and (2) to all contracts with the Departments designated by the President under section 103 (a), and related subcontracts, to the extent of the amounts received or accrued by a contractor or subcontractor on or after the first day of the first month beginning after the date of such designation, whether such contracts or subcontracts were made on, before, or after such first day[; but the provisions of this title shall not be applicable to receipts or accruals attributable to performance, under contracts or subcontracts, after December 31, 1956].

(b) PERFORMANCE PRIOR TO JULY 1, 1950.—Notwithstanding the provisions of subsection (a), the provisions of this title shall not apply to contracts with the Departments, or related subcontracts, to the extent of the amounts received or accrued by a contractor or subcontractor on or after the 1st day of January 1951, which are attributable to performance, under such contracts or subcontracts, prior to July 1, 1950. This subsection shall have no application in the case of contracts, or related subcontracts, which, but for subsection (c), would be subject to the Renegotiation Act of 1948.

(c) *TERMINATION.*—

(1) IN GENERAL.—The provisions of this title shall apply only with respect to receipts and accruals, under contracts with the Departments and related subcontracts, which are determined under regulations prescribed by the Board to be reasonably attributable to performance prior to the close of the termination date. Notwithstanding the method of accounting employed by the contractor or subcontractor in keeping his records, receipts or accruals determined to be so attributable, even if received or accrued after the termination date, shall be considered as having been received or accrued not later than the termination date. For the purposes of this title, the term "termination date" means December 31, 1958.

(2) TERMINATION OF STATUS AS DEPARTMENT.—When the status of any agency of the Government as a Department within the meaning of section 103 (a) is terminated, the provisions of this title shall apply only with respect to receipts and accruals, under contracts with such agency and related subcontracts, which are determined under regulations prescribed by the Board to be reasonably attributable to performance prior to the close of the status termination date. Notwithstanding the method of accounting employed by the contractor or subcontractor in keeping his records, receipts or accruals deter-

mined to be so attributable, even if received or accrued after the status termination date, shall be considered as having been received or accrued not later than the status termination date. For the purposes of this paragraph, the term "status termination date" means, with respect to any agency, the date on which the status of such agency as a Department within the meaning of section 103 (a) is terminated.

[(c)] *(d)* RENEGOTIATION ACT OF 1948.—The Renegotiation Act of 1948 shall not be applicable to any contract or subcontract to the extent of the amounts received or accrued by a contractor or subcontractor on or after the 1st day of January 1951, whether such contract or subcontract was made on, before, or after such first day. In the case of a fiscal year beginning in 1950 and ending in 1951, if a contractor or subcontractor has receipts or accruals prior to January 1, 1951, from contracts or subcontracts subject to the Renegotiation Act of 1948, and also has receipts or accruals after December 31, 1950, to which the provisions of this title are applicable, the provisions of this title shall, notwithstanding subsection (a), apply to such receipts and accruals prior to January 1, 1951, if the Board and such contractor or subcontractor agree to such application of this title; and in the case of such an agreement the provisions of the Renegotiation Act of 1948 shall not apply to any of the receipts or accruals for such fiscal year.

[(d)] *(e)* SUSPENSION OF CERTAIN PROFIT LIMITATIONS.—Notwithstanding any agreement to the contrary, the profit-limitation provisions of the Act of March 27, 1934 (48 Stat. 503, 505), as amended and supplemented, and of section 505 (b) of the Merchant Marine Act, 1936, as amended and supplemented (46 U. S. C. 1155 (b)), shall not apply, in the case of such Act of March 27, 1934, to any contract or subcontract if any of the receipts or accruals therefrom are subject to this title or would be subject to this title except for the provisions of section 106 [(a) (8)] *(e)* and, in the case of the Merchant Marine Act, 1936, to any contract or subcontract entered into after December 31, 1950, if any of the receipts or accruals therefrom are subject to this title or would be subject to this title except for the provisions of section 106 [(a) (8)] *(e)*.

SEC. 103. DEFINITIONS.

For the purposes of this title—

[(a) DEPARTMENT.—The term "Department" means the Department of Defense, the Department of the Army, the Department of the Navy, the Department of the Air Force, the Department of Commerce, the General Services Administration, the Atomic Energy Commission, the Reconstruction Finance Corporation, the Canal Zone Government, the Panama Canal Company, the Housing and Home Finance Agency, and such other agencies of the Government exercising functions having a direct and immediate connection with the national defense as the President shall designate.]

(a) DEPARTMENT.—The term "Department" means the Department of Defense, the Department of the Army, the Department of the Navy, the Department of the Air Force, the Maritime Administration, the Federal Maritime Board, the General Services Administration, and the Atomic Energy Commission. Such term also includes any other agency of the Government exercising functions having a direct and immediate connection with the national defense which is designated by the President

during a national emergency proclaimed by the President, or declared by the Congress, after the date of the enactment of the Renegotiation Amendments Act of 1956; but such designation shall cease to be in effect on the last day of the month during which such national emergency is terminated.

(b) SECRETARY.—The term "Secretary" means the Secretary of Defense, the Secretary of the Army, the Secretary of the Navy, the Secretary of the Air Force, the Secretary of Commerce (*with respect to the Maritime Administration*), *the Federal Maritime Board,* the Administrator of General Services, [the Chairman of] the Atomic Energy Commission, [the Board of Directors of the Reconstruction Finance Corporation, the Governor of the Canal Zone, the president of the Panama Canal Company, the Housing and Home Finance Administrator,] and the head of any other agency of the Government which the President shall designate *as a Department* pursuant to subsection (a) of this section.

(c) BOARD.—The term "Board" means the Renegotiation Board created by section 107 (a) of this Act.

(d) RENEGOTIATE AND RENEGOTIATION.—The terms "renegotiate" and "renegotiation" include a determination by agreement or order under this title of the amount of any excessive profits.

(e) EXCESSIVE PROFITS.—The term "excessive profits" means the portion of the profits derived from contracts with the Departments and subcontracts which is determined in accordance with this title to be excessive. In determining excessive profits favorable recognition must be given to the efficiency of the contractor or subcontractor, with particular regard to attainment of quantity and quality production, reduction of costs, and economy in the use of materials, facilities, and manpower; and in addition, there shall be taken into consideration the following factors:

(1) Reasonableness of costs and profits, with particular regard to volume of production, normal earnings, and comparison of war and peacetime products;

(2) The net worth, with particular regard to the amount and source of public and private capital employed;

(3) Extent of risk assumed, including the risk incident to reasonable pricing policies;

(4) Nature and extent of contribution to the defense effort, including inventive and developmental contribution and cooperation with the Government and other contractors in supplying technical assistance;

(5) Character of business, including source and nature of materials, complexity of manufacturing technique, character and extent of subcontracting, and rate of turn-over;

(6) Such other factors the consideration of which the public interest and fair and equitable dealing may require, which factors shall be published in the regulations of the Board from time to time as adopted.

(f) PROFITS DERIVED FROM CONTRACTS WITH THE DEPARTMENTS AND SUBCONTRACTS.—The term "profits derived from contracts with the Departments and subcontracts" means the excess of the amount received or accrued under such contracts and subcontracts over the costs paid or incurred with respect thereto and determined to be

allocable thereto. All items estimated to be allowed as deductions and exclusions under chapter 1 of the Internal Revenue Code (excluding taxes measured by income) shall, to the extent allocable to such contracts and subcontracts, be allowed as items of cost, except that no amount shall be allowed as an item of cost by reason of the application of a carry-over or carry-back. Notwithstanding any other provision of this section, there shall be allowed as an item of cost in any fiscal year *ending before December 31, 1956*, subject to regulations of the Board, an amount equal to the excess, if any, of costs (computed without the application of this sentence) paid or incurred in the preceding fiscal year with respect to receipts or accruals subject to the provisions of this title over the amount of receipts or accruals subject to the provisions of this title which were received or accrued in such preceding fiscal year, but only to the extent that such excess did not result from gross inefficiency of the contractor or subcontractor. For the purposes of the preceding sentence, the term "preceding fiscal year" does not include any fiscal year ending prior to January 1, 1951. Costs shall be determined in accordance with the method of accounting regularly employed by the contractor or subcontractor in keeping his records, but, if no such method of accounting has been employed, or if the method so employed does not, in the opinion of the Board, or, upon redetermination, in the opinion of The Tax Court of the United States, properly reflect such costs, such costs shall be determined in accordance with such method as in the opinion of the Board, or, upon redetermination, in the opinion of The Tax Court of the United States, does properly reflect such costs. In determining the amount of excessive profits to be eliminated, proper adjustment shall be made on account of the taxes measured by income, other than Federal taxes, which are attributable to the portion of the profits which are not excessive.

(g) SUBCONTRACT.—The term "subcontract" means—

(1) any purchase order or agreement (including purchase orders or agreements antedating the related prime contract or higher tier subcontract) to perform all or any part of the work, or to make or furnish any materials, required for the performance of any other contract or subcontract, but such term does not include any purchase order or agreement to furnish office supplies;

(2) any contract or arrangement covering the right to use any patented or secret method, formula, or device for the performance of a contract or subcontract; and

(3) any contract or arrangement (other than a contract or arrangement between two contracting parties, one of whom is found by the Board to be a bona fide executive officer, partner, or full-time employee of the other contracting party) under which—

(A) any amount payable is contingent upon the procurement of a contract or contracts with a Department or of a subcontract or subcontracts; or

(B) any amount payable is determined with reference to the amount of a contract or contracts with a Department or of a subcontract or subcontracts; or

(C) any part of the services performed or to be performed consists of the soliciting, attempting to procure, or procuring a contract or contracts with a Department or a subcontract or subontracts.

Nothing in this subsection shall be construed (i) to affect in any way the validity or construction of provisions in any contract with a Department or any subcontract, heretofore at any time or hereafter made, prohibiting the payment of contingent fees or commissions; or (ii) to restrict in any way the authority of the Board to determine the nature or amount of selling expense under subcontracts as defined in this subsection, as a proper element of the contract price or as a reimbursable item of cost, under a contract with a Department or a subcontract.

(h) FISCAL YEAR.—The term "fiscal year" means the taxable year of the contractor or subcontractor under chapter 1 of the Internal Revenue Code, except that where any readjustment of interests occurs in a partnership as defined in section 3797 (a) (2) of such code, the fiscal year of the partnership or partnerships involved in such readjustment shall be determined in accordance with regulations prescribed by the Board.

(i) RECEIVED OR ACCRUED AND PAID OR INCURRED.—The terms "received or accrued" and "paid or incurred" shall be construed according to the method of accounting employed by the contractor or subcontractor in keeping his records, but if no such method of accounting has been employed, or if the method so employed does not, in the opinion of the Board, or, upon redetermination, in the opinion of The Tax Court of the United States, properly reflect his receipts or accruals or payments or obligations, such receipts or accruals or such payments or obligations shall be determined in accordance with such method as in the opinion of the Board, or, upon redetermination, in the opinion of The Tax Court of the United States, does properly reflect such receipts or accruals or such payments or obligations.

(j) PERSON.—The term "person" shall include an individual, firm, corporation, association, partnership, and any organized group of persons whether or not incorporated.

(k) MATERIALS.—The term "materials" shall include raw materials, articles, commodities, parts, assemblies, products, machinery, equipment, supplies, components, technical data, processes, and other personal property.

(l) AGENCY OF THE GOVERNMENT.—The term "agency of the Government" means any part of the executive branch of the Government or any independent establishment of the Government or part thereof, including any department (whether or not a Department as defined in subsection (a) of this section), any corporation wholly or partly owned by the United States which is an instrumentality of the United States, or any board, bureau, division, service, office, officer, employee, authority, administration, or other establishment of the Government which is not a part of the legislative or judicial branches.

(m) TWO-YEAR LOSS CARRYFORWARD.—

(1) ALLOWANCE.—Notwithstanding any other provision of this section, the renegotiation loss deduction for any fiscal year ending on or after December 31, 1956, shall be allowed as an item of cost in such fiscal year, under regulations of the Board.

(2) DEFINITIONS.—For the purposes of this subsection—

(A) The term "renegotiation loss deduction" means, for any fiscal year ending on or after December 31, 1956, the sum of the renegotiation loss carryforwards to such fiscal year from the preceding two fiscal years.

(B) The term "renegotiation loss" means, for any fiscal year, the excess, if any, of costs computed without the application of this subsection and the third sentence of subsection (f) paid or incurred in such fiscal year with respect to receipts or accruals subject to the provisions of this title over the amount of receipts or accruals subject to the provisions of this title which were received or accrued in such fiscal year, but only to the extent that such excess did not result from gross inefficiency of the contractor or subcontractor.

(3) AMOUNT OF CARRYFORWARDS.—A renegotiation loss for any fiscal year (hereinafter in this paragraph referred to as the "loss year") shall be a renegotiation loss carryforward to the first fiscal year succeeding the loss year. Such renegotiation loss, after being reduced (but not below zero) by the profits derived from contracts with the Departments and subcontracts in the first fiscal year succeeding the loss year, shall be a renegotiation loss carryforward to the second fiscal year succeeding the loss year. For the purposes of the preceding sentence, the profits derived from contracts with the Departments and subcontracts in the first fiscal year succeeding the loss year shall be computed as follows:

(A) If such first fiscal year ends on or after December 31, 1956, such profits shall be computed by determining the amount of the renegotiation loss deduction for such first fiscal year without regard to the renegotiation loss for the loss year.

(B) If such first fiscal year ends before December 31, 1956, such profits shall be computed without regard to any renegotiation loss for the loss year or any fiscal year preceding the loss year.

SEC. 104. RENEGOTIATION CLAUSE IN CONTRACTS.

Subject to section 106 (a) the Secretary of each Department specifically named in section 103 (a) shall insert in each contract made by such Department thirty days or more after the date of the enactment of this Act, and the Secretary of each Department designated by the President under section 103 (a) shall insert in each contract made by such Department thirty days or more after the date of such designation, a provision under which the contractor agrees—

(1) to the elimination of excessive profits through renegotiation;

(2) that there may be withheld by the United States from amounts otherwise due the contractor, or that he will repay to the United States, if paid to him, any excessive profits;

(3) that he will insert in each subcontract described in section 103 (g) a provision under which the subcontractor agrees—

(A) to the elimination of excessive profits through renegotiation;

(B) that there may be withheld by the contractor for the United States from amounts otherwise due to the subcontractor, or that the subcontractor will repay to the United States, if paid to him, any excessive profits;

(C) that the contractor shall be relieved of all liability to the subcontractor on account of any amount so withheld, or so repaid by the subcontractor to the United States;

(D) that he will insert in each subcontract described in section 103 (g) provisions corresponding to those of sub-

paragraphs (A), (B), and (C), and to those of this subparagraph;

(4) that there may be withheld by the United States from amounts otherwise due the contractor, or that he will repay to the United States, as the Secretary may direct, any amounts which under section 105 (b) (1) (C) the contractor is directed to withhold from a subcontractor and which are actually unpaid at the time the contractor receives such direction.

The obligations assumed by the contractor or subcontractor under paragraph (1) or (3) (A), as the case may be, agreeing to the elimination of excessive profits through renegotiation shall be binding on him only if the contract or subcontract, as the case may be, is subject to this title. A provision inserted in a contract or subcontract, which recites in substance that the contract or subcontract shall be deemed to contain all the provisions required by this section shall be sufficient compliance with this section. Whether or not the provisions specified in this section are inserted in a contract with a Department or subcontract, to which this title is applicable, such contract or subcontract, as the case may be, shall be considered as having been made subject to this title in the same manner and to the same extent as if such provisions had been inserted.

SEC. 105. RENEGOTIATION PROCEEDINGS.

(a) PROCEEDINGS BEFORE THE BOARD.—Renegotiation proceedings shall be commenced by the mailing of notice to that effect, in such form as may be prescribed by regulation, by registered mail to the contractor or subcontractor. The Board shall endeavor to make an agreement with the contractor or subcontractor with respect to the elimination of excessive profits received or accrued, and with respect to such other matters relating thereto as the Board deems advisable. Any such agreement, if made, may, with the consent of the contractor or subcontractor, also include provisions with respect to the elimination of excessive profits likely to be received or accrued. If the Board does not make an agreement with respect to the elimination of excessive profits received or accrued, it shall issue and enter an order determining the amount, if any, of such excessive profits, and forthwith give notice thereof by registered mail to the contractor or subcontractor. In the absence of the filing of a petition with The Tax Court of the United States under the provisions of and within the time limit prescribed in section 108, such order shall be final and conclusive and shall not be subject to review or redetermination by any court or other agency. The Board shall exercise its powers with respect to the aggregate of the amounts received or accrued during the fiscal year (or such other period as may be fixed by mutual agreement) by a contractor or subcontractor under contracts with the Departments and subcontracts, and not separately with respect to amounts received or accrued under separate contracts with the Departments or subcontracts, except that the Board may exercise such powers separately with respect to amounts received or accrued by the contractor or subcontractor under any one or more separate contracts with the Departments or subcontracts at the request of the contractor or subcontractor. By agreement with any contractor or subcontractor, and pursuant to regulations promulgated by it, the Board may in its discretion conduct renegotiation on a consolidated basis in order prop-

erly to reflect excessive profits of two or more related contractors or subcontractors. Renegotiation shall be conducted on a consolidated basis with a parent and its subsidiary coporations which constitute an affiliated group under section 141 (d) of the Internal Revenue Code if all of the corporations included in such affiliated group request renegotiation on such basis and consent to such regulations as the Board shall prescribe with respect to (1) the determination and elimination of excessive profits of such affiliated group, and (2) the determination of the amount of the excessive profits of such affiliated group allocable, for the purposes of section 3806 of the Internal Revenue Code, to each corporation included in such affiliated group. Whenever the Board makes a determination with respect to the amount of excessive profits, and such determination is made by order, it shall, at the request of the contractor or subcontractor, as the case may be, prepare and furnish such contractor or subcontractor with a statement of such determination, of the facts used as a basis therefor, and of its reasons for such determination. Such statement shall not be used in the Tax Court of the United States as proof of the facts or conclusions stated therein.

(b) METHODS OF ELIMINATING EXCESSIVE PROFITS.—

(1) IN GENERAL.—Upon the making of an agreement, or the entry of an order, under subsection (a) of this section by the Board, or the entry of an order under section 108 by The Tax Court of the United States, determining excessive profits, the Board shall forthwith authorize and direct the Secretaries or any of them to eliminate such excessive profits—

(A) by reductions in the amounts otherwise payable to the contractor under contracts with the Departments, or by other revision of their terms;

(B) by withholding from amounts otherwise due to the contractor any amount of such excessive profits;

(C) by directing any person having a contract with any agency of the Government, or any subcontractor thereunder, to withhold for the account of the United States from any amounts otherwise due from such person or such subcontractor to a contractor, or subcontractor, having excessive profits to be eliminated, and every such person or subcontractor receiving such direction shall withhold and pay over to the United States the amounts so required to be withheld;

(D) by recovery from the contractor or subcontractor, or from any person or subcontractor directed under subparagraph (C) to withhold for the account of the United States, through payment, repayment, credit, or suit any amount of such excessive profits realized by the contractor or subcontractor or directed under subparagraph (C) to be withheld for the account of the United States; or

(E) by any combination of these methods, as is deemed desirable.

(2) INTEREST.—Interest at the rate of 4 per centum per annum shall accrue and be paid on the amount of such excessive profits from the thirtieth day after the date of the order of the Board or from the date fixed for repayment by the agreement with the contractor or subcontractor to the date of repayment, and on amounts required to be withheld by any person or subcontractor

for the account of the United States pursuant to paragraph (1) (C), from the date payment is demanded by the Secretaries or any of them to the date of payment. When The Tax Court of the United States, under section 108, redetermines the amount of excessive profits received or accrued by a contractor or subcontractor, interest at the rate of 4 per centum per annum shall accrue and be paid by such contractor or subcontractor as follows:

(A) When the amount of excessive profits determined by the Tax Court is greater than the amount determined by the Board, interest shall accrue and be paid on the amount determined by the Board from the thirtieth day after the date of the order of the Board to the date of repayment and, in addition thereto, interest shall accrue and be paid on the additional amount determined by the Tax Court from the date of its order determining such excessive profits to the date of repayment.

(B) When the amount of excessive profits determined by the Tax Court is equal to the amount determined by the Board, interest shall accrue and be paid on such amount from the thirtieth day after the date of the order of the Board to the date of repayment.

(C) When the amount of excessive profits determined by the Tax Court is less than the amount determined by the Board, interest shall accrue and be paid on such lesser amount from the thirtieth day after the date of the order of the Board to the date of repayment, except that no interest shall accrue or be payable on such lesser amount if such lesser amount is not in excess of an amount which the contractor or subcontractor tendered in payment prior to the issuance of the order of the Board.

Notwithstanding the provisions of this paragraph, no interest shall accrue after three years from the date of filing a petition with the Tax Court pursuant to section 108 of this title in any case in which there has not been a final determination by the Tax Court with respect to such petition within such three-year period.

(3) SUITS FOR RECOVERY.—Actions on behalf of the United States may be brought in the appropriate courts of the United States to recover, (A) from the contractor or subcontractor, any amount of such excessive profits and accrued interest not withheld or eliminated by some other method under this subsection, and (B) from any person or subcontractor who has been directed under paragraph (1) (C) of this subsection to withhold for the account of the United States, the amounts required to be withheld under such paragraph, together with accrued interest thereon.

(4) SURETIES.—The surety under a contract or subcontract shall not be liable for the repayment of any excessive profits thereon.

(5) ASSIGNEES.—Nothing herein contained shall be construed (A) to authorize any Department or agency of the Government, except to the extent provided in the Assignment of Claims Act of 1940, as now or hereafter amended, to withhold from any assignee referred to in said Act, any moneys due or to become due, or to recover any moneys paid, to such assignee under any contract with any Department or agency where such moneys have been assigned

pursuant to such Act, or (B) to authorize any Department or agency of the Government to direct the withholding pursuant to this Act, or to recover pursuant to this Act, from any bank, trust company or other financing institution (including any Federal lending agency) which is an assignee under any subcontract, any moneys due or to become due or paid to any such assignee under such subcontract.

(6) INDEMNIFICATION.—Each person is hereby indemnified by the United States against all claims on account of amounts withheld by such person pursuant to this subsection from a contractor or subcontractor and paid over to the United States.

(7) TREATMENT OF RECOVERIES.—All money recovered by way of repayment or suit under this subsection shall be covered into the Treasury as miscellaneous receipts. Upon the withholding of any amount of excessive profits or the crediting of any amount of excessive profits against amounts otherwise due a contractor from appropriations from the Treasury, the Secretary shall certify the amount thereof to the Treasury and the appropriations of his Department shall be rendered by an amount equal to the amount so withheld or credited. The amount of such reductions shall be transferred to the surplus fund of the Treasury.

(8) CREDIT FOR TAXES PAID.—In eliminating excessive profits, the Secretary shall allow the contractor or subcontractor credit for Federal income and excess profits taxes as provided in section 3806 of the Internal Revenue Code.

(c) PERIODS OF LIMITATIONS.—[No] *In the absence of fraud or malfeasance or willful misrepresentation of a material fact, no* proceeding to determine the amount of excessive profits for any fiscal year shall be commenced more than one year after [the statement required] *a financial statement* under subsection (e) (1) of this section is filed with the Board with respect to such year, and, *in the absence of fraud or malfeasance or willful misrepresentation of a material fact,* if such proceeding is not commenced prior to the expiration of one year following the date upon which such statement is so filed, all liabilities of the contractor or subcontractor for excessive profits received or accrued during such fiscal year shall thereupon be discharged. If an agreement or order determining the amount of excessive profits is not made within two years following the commencement of the renegotiation proceeding, then, *in the absence of fraud or malfeasance or willful misrepresentation of a material fact,* upon the expiration of such two years all liabilities of the contractor or subcontractor for excessive profits with respect to which such proceeding was commenced shall thereupon be discharged, except that (1) if an order is made within such two years pursuant to a delegation of authority under subsection (d) of section 107, such two-year limitation shall not apply to review of such order by the Board, and (2) such two-year period may be extended by mutual agreement.

(d) AGREEMENTS TO ELIMINATE EXCESSIVE PROFITS.—For the purposes of this title the Board may make final or other agreements with a contractor or subcontractor for the elimination of excessive profits and for the discharge of any liability for excessive profits under this title. Such agreements may contain such terms and conditions as the Board deems advisable. Any such agreement shall be conclusive according to its terms; and, except upon a showing of fraud or malfeasance or a willful misrepresentation of a material fact, (1) such

agreement shall not for the purposes of this title be reopened as to the matters agreed upon, and shall not be modified by any officer, employee, or agent of the United States, and (2) such agreement and any determination made in accordance therewith shall not be annulled, modified, set aside, or disregarded in any suit, action, or proceeding. Notwithstanding any other provision of this title, however, the Board shall have the power, pursuant to regulations promulgated by it, to modify any agreement or order for the purpose of extending the time for payment of sums due under such agreement or order, and shall also have the power to set aside and declare null and void any such agreement if, upon a request made to the Board within three years from the date of such agreement, the Board finds as a fact that the aggregate of the amounts received or accrued by the other party to such agreement during the fiscal year covered by such agreement was not more than the minimum amounts subject to renegotiation specified in section 105 (f) for such fiscal year.

(e) INFORMATION AVAILABLE TO BOARD.—

(1) FURNISHING OF FINANCIAL STATEMENTS, ETC.—Every person who holds contracts or subcontracts, to which the provisions of this title are applicable, shall, in such form and detail as the Board may by regulations prescribe, file with the Board, on or before the first day of the [fourth] *fifth* calendar month following the close of this fiscal year, a financial statement setting forth such information as the Board may by regulations prescribe as necessary to carry out this title. [In addition to the statement required under the preceding sentence, every such person shall at such time or times and in such form and detail as the Board may by regulations prescribe, furnish the Board any information, records, or data which are determined by the Board to be necessary to carry out this title. Any person who willfully fails or refuses to furnish any statement, information, records, or data required of him under this subsection, or who knowingly furnishes any such statement, information, records, or data containing information which is false or misleading in any material respect, shall, upon conviction thereof, be punished by a fine of not more than $10,000 or imprisonment for not more than one year, or both.] *The preceding sentence shall not apply to any such person with respect to a fiscal year if the aggregate of the amounts received or accrued under such contracts and subcontracts during such fiscal year by him, and all persons under control of or controlling or under common control with him, is not more than the applicable amount prescribed in subsection (f) (1) or (2) of this section; but any person to whom this sentence applies may, if he so elects, file with the Board for such fiscal year a financial statement setting forth such information as the Board may by regulations prescribe as necessary to carry out this title. The Board may require any person who holds contracts or subcontracts to which the provisions of this title are applicable (whether or not such person has filed a financial statement under this paragraph) to furnish any information, records, or data which are determined by the Board to be necessary to carry out this title and which the Board specifically requests such person to furnish. Such information, records, or data may not be required with respect to any fiscal year after the date on which all liabilities of such person for excessive profits received or accrued during such fiscal year are discharged. Any person who willfully fails or*

refuses to furnish any statement, information, records, or data required of him under this subsection, or who knowingly furnishes any statement, information, records, or data pursuant to this subsection containing information which is false or misleading in any material respect, shall, upon conviction thereof, be punished by a fine of not more than $10,000 or imprisonment for not more than one year, or both.

(2) AUDIT OF BOOKS AND RECORDS.—For the purpose of this title, the Board shall have the right to audit the books and records of any contractor or subcontractor subject to this title. In the interest of economy and the avoidance of duplication of inspection and audit, the services of the Bureau of Internal Revenue shall, upon request of the Board and the approval of the Secretary of the Treasury, be made available to the extent determined by the Secretary of the Treasury for the purpose of making examinations and audits under this title.

(f) MINIMUM AMOUNTS SUBJECT TO RENEGOTIATION.—

(1) IN GENERAL.—If the aggregate of the amounts received or accrued during a fiscal year (and on or after the applicable effective date specified in section 102 (a)) by a contractor or subcontractor, and all persons under control of or controlling or under common control with the contractor or subcontractor, under contracts with the Departments and subcontracts described in section 103 (g) (1) and (2), is not more than $250,000, in the case of a fiscal year ending before June 30, 1953, or $500,000, in the case of a fiscal year ending on or after June 30, 1953, *or $1,000,000, in the case of a fiscal year ending after June 30, 1956*, the receipts or accruals from such contracts and subcontracts shall not, for such fiscal year, be renegotiated under this title. If the aggregate of such amounts received or accrued during the fiscal year under such contracts and subcontracts is more than $250,000, in the case of a fiscal year ending before June 30, 1953, or $500,000, in the case of a fiscal year ending on or after June 30, 1953, *or $1,000,000, in the case of a fiscal year ending after June 30, 1956*, no determination of excessive profits to be eliminated for such year with respect to such contracts and subcontracts shall be in an amount greater than the amount by which such aggregate exceeds $250,000, in the case of a fiscal year ending before June 30, 1953, or $500,000, in the case of a fiscal year ending on or after June 30, 1953, *or $1,000,000, in the case of a fiscal year ending after June 30, 1956*.

(2) SUBCONTRACTS DESCRIBED IN SECTION 103 (g) (3).—If the aggregate of the amounts received or accrued during a fiscal year (and on or after the applicable effective date specified in section 102 (a)) by a subcontractor, and all persons under control of or controlling or under common control with the subcontractor, under subcontracts described in section 103 (g) (3) is not more than $25,000, the receipts or accruals from such subcontracts shall not, for such fiscal year, be renegotiated under this title. If the aggregate of such amounts received or accrued during the fiscal year under such subcontracts is more than $25,000, no determination of excessive profits to be eliminated for such year with respect to such subcontracts shall be in an amount greater than the amount by which such aggregate exceeds $25,000.

(3) COMPUTATION.—In computing the aggregate of the amounts received or accrued during any fiscal year for the purposes of

[paragraphs (1) and (2)] *paragraph (1)* of this subsection, there shall be eliminated all amounts received or accrued by a contractor or subcontractor from all persons under control of or controlling or under common control with the contractor or subcontractor and all amounts received or accrued by each such person from such contractor or subcontractor and from each other such person. If the fiscal year is a fractional part of twelve months, the $250,000 amount, the $500,000 amount, *the $1,000,000 amount*, and the $25,000 amount shall be reduced to the same fractional part thereof of the purposes of paragraphs (1) and (2). In the case of a fiscal year beginning in 1950 and ending in 1951, the $250,000 amount and the $25,000 amount shall be reduced to an amount which bears the same ratio to $250,000 or $25,000, as the case may be. as the number of days in such fiscal year after December 31, 1950, bears to 365, but this sentence shall have no application if the contractor or subcontractor has made an agreement with the Board pursuant to section 102 (c) for the application of the provisions of this title to receipts or accruals prior to January 1, 1951, during such fiscal year. *In the case of a fiscal year beginning on or before the termination date and ending after the termination date, the $1,000,000 amount and the $25,000 amount shall be reduced to an amount which bears the same ratio to $1,000,000 or $25,000, as the case may be, as the number of days in such fiscal year before the close of the termination date bears to 365.*

SEC. 106. EXEMPTIONS.

(a) MANDATORY EXEMPTIONS.—The provisions of this title shall not apply to—

(1) any contract by a Department with any Territory, possession, or State, or any agency or political subdivision thereof, or with any foreign government or any agency thereof; or

(2) any contract or subcontract for an agricultural commodity in its raw or natural state, or if the commodity is not customarily sold or has not an established market in its raw or natural state, in the first form or state, beyond the raw or natural state, in which it is customarily sold or in which it has an established market. The term "agricultural commodity" as used herein shall include but shall not be limited to—

(A) commodities resulting from the cultivation of the soil such as grains of all kinds, fruits, nuts, vegetables, hay, straw, cotton, tobacco, sugarcane, and sugar beets;

(B) natural resins, saps, and gums of trees;

(C) animals, such as cattle, hogs, poultry, and sheep, fish and other marine life, and the produce of live animals, such as wool, eggs, milk and cream; or

(3) any contract or subcontract for the product of a mine, oil or gas well, or other mineral or natural deposit, or timber, which has not been processed, refined, or treated beyond the first form or state suitable for industrial use; or

(4) any contract or subcontract with a common carrier for transportation, or with a public utility for gas, electric energy, water, communications, or transportation, when made in either case at rates not in excess of published rates or charges filed with, fixed, approved, or regulated by a public regulatory body, State

Federal, or local, or at rates not in excess of unregulated rates of such a public utility which are substantially as favorable to users and consumers as are regulated rates. In the case of the furnishing or sale of transportation by common carrier by water, this paragraph shall apply only to such furnishing or sale which is subject to the jurisdiction of the Interstate Commerce Commission under Part III of the Interstate Commerce Act or subject to the jurisdiction of the Federal Maritime Board under the Intercoastal Shipping Act, 1933, and to such furnishing or sale in any case in which the Board finds that the regulatory aspects of rates for such furnishing or sale, or the type and nature of the contract for such furnishing or sale, are such as to indicate, in the opinion of the Board, that excessive profits are improbable; or

(5) any contract or subcontract with an organization exempt from taxation under section 101 (6) of the Internal Revenue Code, but only if the income from such contract or subcontract is not includible under section 422 of such code in computing the unrelated business net income of such organization; or

(6) any contract which the Board determines does not have a direct and immediate connection with the national defense. The Board shall prescribe regulations designating those classes and types of contracts which shall be exempt under this paragraph; and the Board shall, in accordance with regulations prescribed by it, exempt any individual contract not falling within any such class or type if it determines that such contract does not have a direct and immediate connection with the national defense. In designating those classes and types of contracts which shall be exempt and in exempting any individual contract under this paragraph, the Board shall consider as not having a direct or immediate connection with national defense any contract for the furnishing of materials or services to be used by the United States, a Department or agency thereof, in the manufacture and sale of synthetic rubbers to a private person or to private persons which are to be used for nondefense purposes. If the use by such private person or persons shall be partly for defense and partly for nondefense purposes, the Board shall consider as not having a direct or immediate connection with national defense that portion of the contract which is determined not to have been used for national defense purposes. The method used in making such determination shall be subject to approval by the Board. Notwithstanding section 108 of this title, regulations prescribed by the Board under this paragraph, and any determination of the Board that a contract is or is not exempt under this paragraph, shall not be reviewed or redetermined by the Tax Court or by any other court or agency; or

(7) any subcontract directly or indirectly under a contract or subcontract to which this title does not apply by reason of any paragraph, other than paragraph [(8)] *(1), (5), or (8)*, of this subsection; or

[(8) any contract or subcontract for the making or furnishing of a standard commercial article or a standard commercial service, unless the Board makes a specific finding that competitive conditions affecting the sale of such article or such service are such as will not reasonably prevent excessive profits. This paragraph

shall apply to any such contract or subcontract only if (1) the contractor or subcontractor files, at such time and in such form and detail as the Board shall by regulations prescribe, such information and data as may be required by the Board under its regulations for the purpose of enabling it to reach a decision with respect to the making of a specific finding under this paragraph, and (2) within a period of six months after the date of filing of such information and data, the Board fails to make a specific finding that competitive conditions affecting the sale of such article or such service are such as will not reasonably prevent excessive profits, or (3) within such six-month period, the Board makes a specific finding that competitive conditions affecting the sale of such article or such service are such as will reasonably prevent excessive profits. Any contractor or subcontractor may waive the exemption provided in this paragraph with respect to receipts or accruals in any fiscal year by including a statement to such effect in the financial statement filed by such contractor or subcontractor for such fiscal year pursuant to section 105 (e) (1). Any specific finding of the Board under this paragraph shall not be reviewed or redetermined by any court or agency other than by the Tax Court of the United States in a proceeding for a redetermination of the amount of excessive profits determined by an order of the Board. For the purpose of this paragraph—

[(A) the term "article" includes any material, part, component, assembly, machinery, equipment, or other personal property;

[(B) the term "standard commercial article" means an article—

[(1) which, in the normal course of business, is customarily manufactured for stock, and is customarily maintained in stock by the manufacturer or any dealer, distributor, or other commercial agency for the marketing of such article; or

[(2) which is manufactured and sold by more than two persons for general civilian industrial or commercial use, or which is identical in every material respect with an article so manufactured and sold;

[(C) the term "identical in every material respect" means of the same kind, manufactured of the same or substitute materials, and having the same industrial or commercial use or uses, without necessarily being of identical specifications;

[(D) the term "service" means any processing or other operation performed by chemical, electrical, physical, or mechanical methods directly on materials owned by another person;

[(E) the term "standard commercial service" means a service which is customarily performed by more than two persons for general civilian industrial or commercial requirements, or is reasonably comparable with a service so performed;

[(F) the term "reasonably comparable" means of the same or a similar kind, performed with the same or similar materials, and having the same or a similar result, without necessarily involving identical operations; and

[(G) the term "persons" does not include any person under control of, or controlling, or under common control with any other person considered for the purposes of subparagraph (B) (2) of this paragraph; or]

(9) any contract, awarded as a result of competitive bidding, for the construction of any building, structure, improvement, or facility, other than a contract for the construction of housing financed with a mortgage or mortgages insured under the provisions of title VIII of the National Housing Act, as now or hereafter amended.

(b) COST ALLOWANCE.—In the case of a contractor or subcontractor who produces or acquires the product of a mine, oil or gas well, or other mineral or natural deposit, or timber, and processes, refines, or treats such a product to and beyond the first form or state suitable for industrial use, or who produces or acquires an agricultural product and processes, refines, or treats such a product to and beyond the first form or state in which it is customarily sold or in which it has an established market, the Board shall prescribe such regulations as may be necessary to give such contractor or subcontractor a cost allowance substantially equivalent to the amount which would have been realized by such contractor or subcontractor if he had sold such product at such first form or state. Notwithstanding any other provisions of this title, there shall be excluded from consideration in determining whether or not a contractor or subcontractor has received or accrued excessive profits that portion of the profits, derived from receipts and accruals subject to the provisions of this title, attributable to the increment in value of the excess inventory. For the purposes of this subsection the term "excess inventory" means inventory of products, hereinbefore described in this subsection, acquired by the contractor or subcontractor in the form or at the state in which contracts for such products on hand or on contract would be exempted from this title by subsection (a) (2) or (3) of this section, which is in excess of the inventory reasonably necessary to fulfill existing contracts or orders. That portion of the profits, derived from receipts and accruals subject to the provisions of this title, attributable to the increment in value of the excess inventory, and the method of excluding such portion of profits from consideration in determining whether or not the contractor or subcontractor has received or accrued excessive profits, shall be determined in accordance with regulations prescribed by the Board.

(c) PARTIAL MANDATORY EXEMPTION FOR DURABLE PRODUCTIVE EQUIPMENT.—

(1) IN GENERAL.—The provisions of this title shall not apply to receipts or accruals (other than rents) from contracts or subcontracts for new durable productive equipment, except (A) to that part of such receipts or accruals which bears the same ratio to the total of such receipts or accruals as five years bears to the average useful life of such equipment as set forth in Bulletin F of the Bureau of Internal Revenue (1942 edition) or, if an average useful life is not so set forth, then as estimated by the Board and (B) to receipts and accruals from contracts for new durable productive equipment in cases in which the Board finds that the new durable productive equipment covered by such contracts cannot be adapted, converted, or retooled for commercial use.

(2) DEFINITION.—For the purpose of this subsection, the term "durable productive equipment" means machinery, tools, or other productive equipment which has an average useful life of more than five years.

(d) PERMISSIVE EXEMPTIONS.—The Board is authorized, in its discretion, to exempt from some or all of the provisions of this title—

(1) any contract or subcontract to be performed outside of the territorial limits of the continental United States or in Alaska;

(2) any contracts or subcontracts under which, in the opinion of the Board, the profits can be determined with reasonable certainty when the contract price is established, such as certain classes of (A) agreements for personal services or for the purchase of real property, perishable goods, or commodities the minimum price for the sale of which has been fixed by a public regulatory body, (B) leases and license agreements, and (C) agreements where the period of performance under such contract or subcontract will not be in excess of thirty days;

(3) any contract or subcontract or performance thereunder during a specified period or periods if, in the opinion of the Board, the provisions of the contract are otherwise adequate to prevent excessive profits;

(4) any contract or subcontract the renegotiation of which would jeopardize secrecy required in the public interest;

(5) any subcontract or group of subcontracts not otherwise exempt from the provisions of this section, if, in the opinion of the Board, it is not administratively feasible in the case of such subcontract or in the case of such group of subcontracts to determine and segregate the profits attributable to such subcontract or group of subcontracts from the profits attributable to activities not subject to renegotiation.

The Board may so exempt contracts and subcontracts both indivually and by general classes or types.

(e) MANDATORY EXEMPTION FOR STANDARD COMMERCIAL ARTICLES AND SERVICES.—

(1) ARTICLES AND SERVICES.—The provisions of this title shall not apply to amounts received or accrued in a fiscal year under any contract or subcontract for an article or service which (with respect to such fiscal year) is—

(A) a standard commercial article;

(B) an article which is identical in every material respect with a standard commercial article; or

(C) a service which is a standard commercial service or is reasonably comparable with a standard commercial service.

(2) CLASSES OF ARTICLES.—The provisions of this title shall not apply to amounts received or accrued in a fiscal year under any contract or subcontract for an article which (with respect to such fiscal year) is an article in a standard commercial class of articles.

(3) APPLICATIONS.—Paragraphs (1) (B) or (C) and paragraph (2) shall apply to amounts received or accrued in a fiscal year under any contract or subcontract for an article or service only if—

(A) the contractor or subcontractor at his election files, at such time and in such form and detail as the Board shall by regulations prescribe, an application containing such information and data as may be required by the Board under its regula-

tions for the purpose of enabling it to make a determination under the applicable paragraph, and

(B) the Board determines that such article or service is, or fails to determine that such article or service is not, an article or service to which such paragraph applies, within the following periods after the date of filing such application:

(i) in the case of paragraph (1) (B) or (C), three months;

(ii) in the case of paragraph (2), six months; or

(iii) in either case, any longer period stipulated by mutual agreement.

(4) DEFINITIONS.—For the purposes of this subsection—

(A) the term "article" includes any material, part, component, assembly, machinery, equipment, or other personal property;

(B) the term "standard commercial article" means, with respect to any fiscal year, an article—

(i) which either is customarily maintained in stock by the contractor or subcontractor or is offered for sale in accordance with a price schedule regularly maintained by the contractor or subcontractor, and

(ii) from the sales of which by the contractor or subcontractor at least 35 percent of the receipts or accruals in such fiscal year, or of the aggregate receipts or accruals in such fiscal year and the preceding fiscal year, are not (without regard to this subsection and subsection (c) of this section) subject to this title;

(C) an article is, with respect to any fiscal year, "idential in every material respect with a standard commercial article" only if—

(i) such article is of the same kind and manufactured of the same or substitute materials (without necessarily being of identical specifications) as a standard commercial article from sales of which the contractor or subcontractor has receipts or accruals in such fiscal year,

(ii) such article is sold at a price which is reasonably comparable with the price of such standard commercial article, and

(iii) at least 35 percent of the aggregate receipts or accruals in such fiscal year by the contractor or subcontractor from sales of such article and sales of such standard commercial article are not (without regard to this subsection and subsection (c) of this section) subject to this title;

(D) the term "service" means any processing or other operation performed by chemical, electrical, physical, or mechanical methods directly or materials owned by another person;

(E) the term "standard commercial service" means, with respect to any fiscal year, a service from the performance of which by the contractor or subcontractor at least 35 percent of the receipts or accruals in such fiscal year are not (without regard to this subsection) subject to this title;

(F) a service is, with respect to any fiscal year, "reasonably comparable with a standard commercial service" only if—

(i) such service is of the same or a similar kind, performed with the same or similar materials, and has the same or a similar result, without necessarily involving identical operations, as a standard commercial service from the performance of which the contractor or subcontractor has receipts or accruals in such fiscal year, and

(ii) at least 35 percent of the aggregate receipts or accruals in such fiscal year by the contractor or subcontractor from the performance of such service and such standard commercial service are not (without regard to this subsection) subject to this title, and

(G) the term "standard commercial class of articles" means, with respect to any fiscal year, two or more articles with respect to which the following conditions are met:

(i) at least one of such articles either is customarily maintained in stock by the contractor or subcontractor or is offered for sale in accordance with a price schedule regularly maintained by the contractor or subcontractor,

(ii) all of such articles are of the same kind and manufactured of the same or substitute materials (without necessarily being of identical specifications),

(iii) all of such articles are sold at reasonably comparable prices, and

(iv) at least 35 percent of the aggregate receipts or accruals in the fiscal year by the contractor or subcontractor from sales of all of such articles are not (without regard to this subsection and subsection (c) of this section) subject to this title.

(5) WAIVER OF EXEMPTION.—Any contractor or subcontractor may waive the exemption provided in paragraphs (1) and (2) with respect to his receipts or accruals in any fiscal year from sales of any article or service by including a statement to such effect in the financial statement filed by him for such fiscal year pursuant to section 105 (e) (1), without necessarily waiving such exemption with respect to receipts or accruals in such fiscal year from sales of any other article or service. A waiver, if made, shall be unconditional, and no waiver may be made without the permission of the Board for any receipts or accruals with respect to which the contractor or subcontractor has previously filed an application under paragraph (3).

(6) NONAPPLICABILITY DURING NATIONAL EMERGENCIES.—Paragraphs (1) and (2) shall not apply to amounts received or accrued during a national emergency proclaimed by the President, or declared by the Congress, after the date of the enactment of the Renegotiation Amendments Act of 1956.

SEC. 107. RENEGOTIATION BOARD.

(a) CREATION OF BOARD.—There is hereby created, as an independent establishment in the executive branch of the Government, a Renegotiation Board to be composed of five members to be appointed by the President, by and with the advice and consent of the Senate. The Secretaries of the Army, the Navy, and the Air Force, respectively, subject to the approval of the Secretary of Defense, and the

Administrator of General Services shall each recommend to the President, for his consideration, one person from civilian life to serve as a member of the Board. The President shall, at the time of appointment, designate one member to serve as Chairman. The Chairman shall receive compensation at the rate of $17,500 per annum, and the other members shall receive compensation at the rate of $15,000 per annum. No member shall actively engage in any business, vocation, or employment other than as a member of the Board. The Board shall have a seal which shall be judicially noticed.

(b) PLACES OF MEETINGS AND QUORUM.—The principal office of the Board shall be in the District of Columbia, but it or any division thereof may meet and exercise its powers at any other place. The Board may establish such number of offices as it deems necessary to expedite the work of the Board. Three members of the Board shall constitute a quorum, and any power, function, or duty of the Board may be exercised or performed by a majority of the members present if the members present constitute at least a quorum.

(c) PERSONNEL.—The Board is authorized, subject to the Classification Act of 1949 [(but without regard to the civil-service laws and regulations)] *and the civil-service laws and regulations*, to employ and fix the compensation of such officers and employees as it deems necessary to assist it in carrying out its duties under this title. The Board may, with the consent of the head of the agency of the Government concerned, utilize the services of any officers or employees of the United States, and reimburse such agency for the services so utilized. Officers or employees whose services are so utilized shall not receive additional compensation for such services, but shall be allowed and paid necessary travel expenses and a per diem in lieu of subsistence in accordance with the Standardized Government Travel Regulations while away from their homes or official station on duties of the Board.

(d) DELEGATION OF POWERS.—The Board may delegate in whole or in part any function, power, or duty (other than its power to promulgate regulations and rules and other than its power to grant permissive exemptions under section 106 (d)) to any agency of the Government, including any such agency established by the Board, and may authorize the successive redelegation, within limits specified by it, of any such function, power, or duty to any agency of the Government, including any such agency established by the Board. But no function, power, or duty shall be delegated or redelegated to any person pursuant to this subsection or subsection (f) unless the Board has determined that such person (other than the Secretary of a Department) is responsible directly to the Board or to the person making such delegation or redelegation and is not engaged on behalf of any Department in the making of contracts for the procurement of supplies or services, or in the supervision of such activity; and any delegation or redelegation of any function, power, or duty pursuant to this subsection or subsection (f) shall be revoked by the person making such delegation or redelegation (or by the Board if made by it) if the Board shall at any time thereafter determine that the person (other than the Secretary of a Department) to whom has been delegated or

redelegated such function, power or duty is not responsible directly to the Board or to the person making such delegation or redelegation or is engaged on behalf of any Department in the making of contracts for the procurement of supplies or services, or in the supervision of such activity.

(e) ORGANIZATION AND OPERATION OF BOARD.—The Chairman of the Board may from time to time divide the Board into divisions of one or more members, assign the members of the Board thereto, and in case of a division of more than one member, designate the chief thereof. The Board may also, by regulations or otherwise, determine the character of cases to be conducted initially by the Board through an officer or officers of, or utilized by, the Board, the character of cases to be conducted initially by the various agencies of the Government authorized to exercise powers of the Board pursuant to subsection (d) of this section, the character of cases to be conducted initially by the various divisions of the Board, and the character of cases to be conducted initially by the Board itself. The Board may review any determination in any case not initially conducted by it, on its own motion or, in its discretion, at the request of any contractor or subcontractor aggrieved thereby. Unless the Board upon its own motion initiates a review of such determination within ninety days from the date of such determination, or at the request of the contractor or subcontractor made within ninety days from the date of such determination initiates a review of such determination within ninety days from the date of such request, such determination shall be deemed the determination of the Board. If such determination was made by an order with respect to which notice thereof was given by registered mail pursuant to section 105 (a), the Board shall give notice by registered mail to the contractor or subcontractor of its decision not to review the case. If the Board reviews any determination in any case not initially conducted by it and does not make an agreement with the contractor or subcontractor with respect to the elimination of excessive profits, it shall issue and enter an order under section 105 (a) determining the amount, if any, of excessive profits, and forthwith give notice thereof by registered mail to the contractor or subcontractor. The amount of excessive profits so determined upon review may be less than, equal to, or greater than, that determined by the agency of the Government whose action is so reviewed.

(f) DELEGATION OF RENEGOTIATION FUNCTIONS TO BOARD.—The Board is hereby authorized and directed to accept and perform such renegotiation powers, duties, and functions as may be delegated to it under any other law requiring or permitting renegotiation, and the Board is further authorized to redelegate any such power, duty, or function to any agency of the Government and to authorize successive redelegations thereof, within limits specified by the Board. Notwithstanding any other provision of law, the Secretary of Defense is hereby authorized to delegate to the Board, in whole or in part, the powers, functions, and duties conferred upon him by any other renegotiation law.

SEC. 108. REVIEW BY THE TAX COURT.

Any contractor or subcontractor aggrieved by an order of the Board determining the amount of excessive profits received or accrued by such contractor or subcontractor may—

(a) if the case was conducted initially by the Board itself—within ninety days (not counting Sunday or a legal holiday in the District of Columbia as the last day) after the mailing under section 105 (a) of the notice of such order, or

(b) if the case was not conducted initially by the Board itself—within ninety days (not counting Sunday or a legal holiday in the District of Columbia as the last day) after the mailing under section 107 (e) of the notice of the decision of the Board not to review the case or the notice of the order of the Board determining the amount of excessive profits,

file a petition with The Tax Court of the United States for a redetermination thereof. Upon such filing such court shall have exclusive jurisdiction, by order, to finally determine the amount, if any, of such excessive profits received or accrued by the contractor or subcontractor, and such determination shall not be reviewed or redetermined by any court or agency. The court may determine as the amount of excessive profits an amount either less than, equal to, or greater than that determined by the Board. A proceeding before the Tax Court to finally determine the amount, if any, of excessive profits shall not be treated as a proceeding to review the determination of the Board, but shall be treated as a proceeding de novo. For the purposes of this section the court shall have the same powers and duties, insofar as applicable in respect of the contractor, the subcontractor, the Board, and the Secretary, and in respect of the attendance of witnesses and the production of papers, notice of hearings, hearings before divisions, review by the Tax Court of decisions of divisions, stenographic reporting, and reports of proceedings, as such court has under sections 1110, 1111, 1113, 1114, 1115 (a), 1116, 1117 (a), 1118, 1120, and 1121 of the Internal Revenue Code in the case of a proceeding to redetermine a deficiency. In the case of any witness for the Board, the fees and mileage, and the expenses of taking any deposition shall be paid out of appropriations of the Board available for that purpose, and in the case of any other witnesses shall be paid, subject to rules prescribed by the court, by the party at whose instance the witness appears or the deposition is taken. The filing of a petition under this section shall operate to stay the execution of the order of the Board under subsection (b) of section 105 *only* if within ten days after the filing of the petition the petitioner files with the Tax Court a good and sufficient bond, approved by such court, in such amount as may be fixed by the court. Any amount collected by the United States under an order of the Board in excess of the amount found to be due under a determination of excessive profits by the Tax Court shall be refunded to the contractor or subcontractor with interest thereon at the rate of 4 per centum per annum from the date of collection by the United States to the date of refund.

SEC. 108A. VENUE OF APPEALS FROM TAX COURT DECISIONS IN RENEGOTIATION CASES

A decision of the Tax Court of the United States under section 108 of this Act may, to the extent subject to review, be reviewed by—

(1) the United States Court of Appeals for the circuit in which is located the office to which the contractor or subcontractor made his Federal income-tax return for the taxable year which corresponds to the fiscal year with respect to which such decision of the Tax Court was made, or if no such return was made for such taxable year, then by the United States Court of Appeals for the District of Columbia, or

(2) any United States Court of Appeals designated by the Attorney General and the contractor or subcontractor by stipulation in writing.

SEC. 109. RULES AND REGULATIONS.

The Board may make such rules, regulations, and orders as it deems necessary or appropriate to carry out the provisions of this title.

SEC. 110. COMPLIANCE WITH REGULATIONS, ETC.

No person shall be held liable for damages or penalties for any act or failure to act resulting directly or indirectly from his compliance with a rule, regulation, or order issued pursuant to this title, notwithstanding that any such rule, regulation, or order shall thereafter be declared by judicial or other competent authority to be invalid.

SEC. 111. APPLICATION OF ADMINISTRATIVE PROCEDURE ACT.

The functions exercised under this title shall be excluded from the operation of the Administrative Procedure Act (60 Stat. 237) except as to the requirements of section 3 thereof.

SEC. 112. APPROPRIATIONS.

There are hereby authorized to be appropriated such sums as may be necessary and appropriate for the carrying out of the provisions and purposes of this title. Funds made available for the purposes of this title may be allocated or transferred for any of the purposes of this title, with the approval of the Bureau of the Budget to any agency of the Government designated to assist in carrying out this title. Funds so allocated or transferred shall remain available for such period as may be specified in the Acts making such funds available.

SEC. 113. PROSECUTION OF CLAIMS AGAINST UNITED STATES BY FORMER PERSONNEL.

Nothing in title 18, United States Code, sections 281 and 283, or in section 190 of the Revised Statutes (U. S. C., title 5, sec. 99) shall be deemed to prevent any person by reason of service in a Department or the Board [during the period (or a part thereof) beginning July 1, 1950, and ending December 31, 1953,] from acting as counsel, agent, or attorney for prosecuting any claim against the United States: *Provided*, That such person shall not prosecute any claim against the United States (1) involving any subject matter directly connected with which such person was so employed, or (2) during the period such person is engaged in employment in a Department or the Board.

SEC. 114. REPORTS TO CONGRESS.

The Board shall on or before January 1, 1957, and on or before January 1 of each year thereafter, submit to the Congress a complete report of its activities for the preceding year ending on June 30. Such report shall include—

(1) the number of persons in the employment of the Board during such year, and the places of their employment;

(2) the administrative expenses incurred by the Board during such year;

(3) statistical data relating to filings during such year by contractors and subcontractors, and to the conduct and disposition during such year of proceedings with respect to such filings and filings made during previous years;

(4) an explanation of the principal changes made by the Board during such year in its regulations and operating procedures;

(5) the number of renegotiation cases disposed of by the Tax Court, each United States Court of Appeals, and the Supreme Court during such year, and the number of cases pending in each such court at the close of such year; and

(6) such other information as the Board deems appropriate.

TITLE II—MISCELLANEOUS PROVISIONS

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Calendar No. 2670

84TH CONGRESS, 2d Session | SENATE | REPORT No. 2625

PERMITTING CERTAIN VESSELS SOLD TO BRAZIL TO CARRY BULK CARGO ON DELIVERY VOYAGE

JULY 18 (legislative day, JULY 16), 1956.—Ordered to be printed

Mr. MAGNUSON, from the Committee on Interstate and Foreign Commerce, submitted the following

REPORT

[To accompany S. 4215]

The Committee on Interstate and Foreign Commerce, to whom was referred the bill (S. 4215) to amend the act of July 15, 1954, authorizing the sale of certain vessels to Brazil, having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

PURPOSE OF THE BILL

At the instance of the Department of State, and in the interest of improved relations with the Government of Brazil, legislation was enacted in the 83d Congress to authorize the sale of 12 Cl–MAV–I type vessels to that Government, for use in the coastwise trade of that country. It was made clear, however, that implementation of this legislation would depend on the carrying out of assurances given by the Government of Brazil that certain discriminations then in effect there against United States shipping would be removed.

These commitments on the part of the Brazilian Government having been discharged to the satisfaction of this Government, Brazil has been permitted to take title to the 12 vessels in question.

This bill would permit the 12 vessels to carry bulk grain and coal cargoes on the initial voyage to Brazil, but would restrict them thereafter to service in the coastwise trade there. In other words, the vessels would not be required to make the trip to their home ports in ballast.

The various shipping lines operating to Brazil, and the major shipping organizations of the country are on record with the committee as not opposing the legislation.

The report of the Department of State on the bill is appended.

DEPARTMENT OF STATE,
Washington, July 16, 1956.

Hon. WARREN G. MAGNUSON,
Chairman, Interstate and Foreign Commerce Committee,
United States Senate.

DEAR SENATOR MAGNUSON: I wish to confirm to you the verbal request of the Department for the introduction of a joint resolution amending Public Law 496 of the 83d Congress, which authorized the sale of 12 C1–MAV–1 vessels to Brazil, in order to permit these 12 C1–MAV–1's to carry bulk grain and coal on the delivery voyage after the ships have been purchased under the above-cited law.

On July 15, 1954, the Congress passed Public Law 496 which authorized the United States Maritime Administration to sell 12 C1–MAV–1's to Brazil for coastal operations only. The law prohibits these ships from engaging in international trade, which has been interpreted by the Maritime Administration to include their delivery voyage outbound from the United States.

The Brazilian Government through the Brazilian Ambassador and the President, has requested that permission be given for the Government of Brazil to carry bulk grain and coal on the first outbound delivery voyage of the 12 ships purchased under Public Law No. 496. Before this permission can be given it will be necessary to secure congressional authority for this movement. Cooperation with the Government of Brazil to this extent would be highly beneficial to the relations between the two countries and would also strengthen the economic position of Brazil. The Department believes that granting the permission requested by the Government of Brazil will obtain a great deal of good will in that country which will redound to the advantage of all shipping companies operating in Brazil. The Department further believes that this good will can be obtained for a relatively small effort on the part of this Government.

The proposal has been discussed with the Maritime Administration and the two United States shipping lines operating to Brazil, which indicate that they have no objection to this proposal, so long as it is limited to bulk cargo on the initial voyage and would not cover general cargo. The Merchant Marine Institute, the Pacific American Steamship Association and the American Tramp Ship Owners Association have also concurred on the same basis. The current shipping situation is such that this proposal offers no problem at the present time.

Passage of such authorizing legislation is urgently needed since the ships in question will be ready to sail in the near future, and the Department of State strongly supports the passage of the proposed joint resolution.

It is requested that you also consider this letter as the Department's report on S. 4215 of July 13, 1956.

Sincerely yours,

ROBERT C. HILL,
Assistant Secretary
(For the Secretary of State).

CHANGES IN EXISTING LAW

In compliance with subsection 4 of the rule XXIX of the Standing Rules of the Senate, changes in existing law made by the bill, as reported, are shown as follows (new matter is printed in italics and existing law in which no change is proposed is shown in roman):

SALE OF CERTAIN VESSELS TO BRAZIL

(46 U. S. C. 808, 835)

(a) * *
(b) * * *
(c) * * *
(d) * * *
(e) * * *
(f) * * *

(g) Every transfer under the authority of this Act, including transfers under the authority of section 9, or section 37, of the Shipping Act, 1916, within the intent of subsection (c) hereof, shall be subject to an agreement by the Government of Brazil that the vessels whether under mortgage to the United States or not shall not engage in international trade or in other coastwise trade of Brazil, *except that, upon recommendation of the Maritime Administrator, and with the approval of the Secretary of Commerce, any such vessel may carry bulk grain and coal cargo while en route from the United States directly to Brazil after purchase hereunder for use thereafter only in the coastwise trade of Brazil.*

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Calendar No. 2671

84TH CONGRESS, 2d Session | SENATE | REPORT No. 2626

FISH HATCHERY IN WEST VIRGINIA

JULY 18 (legislative day, July 16), 1956.—Ordered to be printed

Mr. MAGNUSON, from the Committee on Interstate and Foreign Commerce, submitted the following

REPORT

[To accompany S. 3831]

The Committee on Interstate and Foreign Commerce, to whom was referred the bill (S. 3831) to provide for the establishment of a fish hatchery in the State of West Virginia, having considered the same, reports favorably thereon with an amendment and recommends that the bill as amended do pass.

The bill as introduced provided that the Secretary of the Interior shall establish, equip, operate and maintain a fish hatchery in the State of West Virginia to provide fish to stock the waters of the national forests in such State.

As reported, the limitation that the hatchery output would be for the benefit of the waters of the national forests in West Virginia has been removed as it is contemplated that such output will be more widely distributed.

It is estimated that the original construction cost will be $600,000, and that the annual expenditures for operation and maintenance will amount to $100,000. It has been suggested that the hatchery be located at Bowden Spring, near Elkins, W. Va.

An authorization for the appropriation of the necessary funds is also included in the bill.

The favorable report of the Department of the Interior, which is set out below, gives compelling reasons for the enactment of the legislation.

There are no changes in existing law.

DEPARTMENT OF THE INTERIOR,
OFFICE OF THE SECRETARY,
Washington, D. C., July 16, 1956.

Hon. WARREN G. MAGNUSON,
Chairman, Committee on Interstate and Foreign Commerce,
United States Senate, Washington, D. C.

MY DEAR SENATOR MAGNUSON: Your committee has requested a report on S. 3831, a bill to provide for the establishment of a fish hatchery in the State of West Virginia.

We recommend the enactment of S. 3831 if it is amended to remove the provision in the bill that would limit the use of the hatchery output for the benefit of the waters of the national forests of West Virginia. While we expect that the majority of the fish to be produced at the hatchery will be distributed to waters in the Monongahela National Forest, we believe that a part of the production should be available, if necessary, for distribution elsewhere to suitable waters, as required by circumstances.

The demand for trout for restocking waters in the Monongahela National Forest greatly exceeds the present output of the State and Federal hatcheries serving that area. The United States Forest Service has indicated a need for 1 million legal-sized trout annually, for restocking waters in this forest. There is considerable interest also in the establishment of a Federal hatchery to assist in the maintenance of both trout and warm-water fish populations in other waters in the State. The farm-pond program in the area is expanding, and this, plus the new impoundments that are being created on the National Forest, is increasing the demand for warm-water fish.

We have made a survey of potential hatchery sites in West Virginia and a site has been considered tentatively near Elkins, in Randolph County, as being suitable for the establishment of a large combination trout and warm-water hatchery. The Elkins site includes a reported flow (May 1956) of over 4,000 gallons per minute from the Bowden Springs, and a supplemental supply is available from the Shavers River. The site is favorably located to serve the major part of West Virginia and is at the hub of a network of major highways. Another site that may be suitable, the Big Spring, at Wardensville is also being considered as having an adequate water supply for establishment of a fish hatchery in this region. Before the most suitable site can be determined, however, additional flow and temperature records must be made on the various springs and streams of other potential hatchery sites in the area.

For reasons previously stated, we suggest that section 1 of the bill be revised to read as follows:

"That the Secretary of the Interior is authorized to establish, construct, equip, operate, and maintain a new fish hatchery in the State of West Virginia."

The cost of constructing this proposed combination trout and warm-water fish hatchery so that it will be adequate in size to produce the fish needed for stocking purposes in the Monongahela Forest and adjacent areas, will be approximately $600,000. This sum would be used for land purchase, easements, construction of concrete raceways, earthen rearing ponds, water-supply and drainage pipelines, combination hatchery building (including hatching room, cold-storage and fishfood preparation rooms, storage area, shop and office), quarters

for permanent employees, service roads, fences, and initial equipment for the hatchery. The proposed hatchery would be expected to produce approximately 100,000 pounds of fish. We estimate that it will cost approximately $100,000 annually to operate the hatchery.

We have been advised by the Bureau of the Budget that there is no objection to the submission of this report to your committee.

Sincerely yours,

WESLEY A. D'EWART,
Assistant Secretary of the Interior.

90005°—57 S. Rept., 84-2, vol. 5——14

Calendar No. 2672

84TH CONGRESS, 2d Session | SENATE | REPORT No. 2627

AUTHORIZING USE OF VESSEL REVOLVING FUND FOR ACTIVATION, AND SO FORTH, OF CHARTERED VESSELS

JULY 18 (legislative day, JULY 16), 1956.—Ordered to be printed

Mr. MAGNUSON, from the Committee on Interstate and Foreign Commerce, submitted the following

REPORT

[To accompany H. J. Res. 613]

The Committee on Interstate and Foreign Commerce, to whom was referred the resolution (H. J. Res. 613) to authorize the vessel operations revolving fund of the Department of Commerce to be used for expenses in connection with the chartering of merchant ships under jurisdiction of the Secretary of Commerce, having considered the same, report favorably thereon without amendment, and recommend that the resolution do pass.

PURPOSE OF THE RESOLUTION

The resolution authorizes the Secretary of Commerce to use the vessel revolving fund, beginning July 1, 1956, for expenses attendant upon the activation, repair and deactivation of merchant ships chartered under his jurisdiction. It further provides that the fund shall be credited with all receipts accrued from charter operations accomplished after July 1. Thus, the authority originally proposed in the 1957 Commerce appropriations bill as a 1-year authority "for limited emergency purposes" has been broadened in House Joint Resolution 613 to include all charters under jurisdiction of the Secretary of Commerce.

The bill in no way broadens the Secretary's existing authority under title V of the Merchant Ship Sales Act of 1946, as amended, to enter into charters, but merely provides that once having established the necessity for a charter, he can use the fund for readying the ship, or ships, for active operation.

BACKGROUND OF THE LEGISLATION

During the course of consideration of the Department of Commerce and related agencies bill, 1957 (H. R. 10899), a question of legislative policy was raised on the floor of the House by the chairman of the Merchant Marine and Fisheries Committee concerning the proposed use of the vessel revolving fund (created by the Third Supplemental Appropriations Act of 1951) for the costs of activating ships from the reserve fleet at the time of their charter, and for lay-up costs upon their return. As a consequence, the 1957 Department of Commerce and Related Agencies Appropriations Act (Public Law 604, 84th Cong.) was amended so as to confine the revolving fund's use to expenses for activation and deactivation of merchant ships "chartered for limited emergency purposes during the fiscal year 1957." At the time this narrowing amendment was made, however, it was made clear by the chairman of the House Merchant Marine and Fisheries Committee that appropriate legislation would be introduced to broaden the fund's use to all vessels chartered under jurisdiction of the Department of Commerce.

House Joint Resolution 613 subsequently was introduced on May 7, 1956, and after thorough hearings was reported favorably by the Merchant Marine and Fisheries Committee of the House (H. Rept. 2545) and passed that body on July 16, 1956, under unanimous consent. The House report is incorporated by reference into this report, and contains many facts which have been persuasive to your committee in recommending this legislation.

ADEQUATE SAFEGUARDS

Your committee is satisfied that the legislation provides adequate protection of the public interest, as well as the interest of the owners of private merchant ships, who are undeniably entitled to protection against Government-sponsored competition.

The public interest is protected by already existing law (title V, Merchant Ship Sales Act of 1946, as amended) wherein the Secretary may include appropriate financial conditions in charters so as to maximize the income from the charter contract. On this point, the Maritime Administrator has given assurances to the Congress that during periods of peak demand and high charter rates he will use his existing statutory authority to set charter terms at a level sufficiently high to provide for recoupment to the Government of all or most of the breakout and lay-up expenses incurred, depending necessarily upon the length of the charter and the amount of the expense. This flexibility permits the Secretary of Commerce to drive the hardest bargain possible under existing conditions at the time of charter. The terms established in recent charter decisions announced by Maritime Administration would indicate that these assurances are being carried out.

The interest of private owners of merchant ships is protected under existing law, and House Joint Resolution 613 does not disturb this in any respect. Title V (charter provisions) of the Merchant Ship Sales Act requires a public hearing wherein applicants must demonstrate (1) the need for the vessels in the public interest, (2) the inadequacy of existing service, and (3) the nonavailability of private United States-flag vessels for charter in the service or route on reasonable conditions

and at reasonable rates. Thus, the competitive impact on privately owned ships must be scrutinized and carefully considered. And it is only after this is established one way or the other that the issue of breakout and lay-up costs comes into play.

There is little doubt that current conditions in the world shipping market have created a shortage of shipping space in many trade routes. The demands for shipping service by both commercial trade and governmental overseas programs are far in excess of anticipation. This upward trend has not been of sufficient duration to determine whether it is a peak or a new level of world shipping requirements and until this becomes clear, owners and operators of private American ships will not be in a position to build enough new vessels to meet current demand. Charter operation of Government vessels is a logical transition step pending clarification of the trend. This legislation simply recognizes and deals with a practical financial problem under existing charter authority and allows the Government to pay breakup and lay-up costs out of the revolving fund, at the same time requiring reimbursement of all or most of those costs into the fund.

There is set out below a letter from the Secretary of Commerce to the chairman of the House Committee on Merchant Marine and Fisheries endorsing this legislation. The letter indicates that the Bureau of the Budget has no objection to submission of the report.

Hon. HERBERT C. BONNER,
Chairman, Committee on Merchant Marine and Fisheries,
House of Representatives, Washington, D. C.

DEAR MR. BONNER: This letter is in reply to your requests for the views of this Department with respect to H. R. 10987, a bill to amend the Merchant Ship Sales Act of 1946 to permit the use of vessel revolving funds for vessel activation and deactivation; and House Joint Resolution 613, a joint resolution to authorize the vessel operations revolving fund of the Department of Commerce to be used for expenses in connection with the chartering of merchant ships under jurisdiction of the Secretary of Commerce.

H. R. 10987 would amend section 5 (e) (1) of the Merchant Ship Sales Act of 1946, as amended. This section authorizes the bareboat charter by the Secretary of Commerce of war-built dry cargo vessels, after hearing by the Federal Maritime Board, for use in service required in the public interest and not adequately served, and for which privately owned American-flag vessels are not available for charter by private operators on reasonable conditions and at reasonable rates for such service. The bill would amend the section to provide that the vessel operations revolving fund (created by the Third Supplemental Appropriation Act, 1951) shall be available for activation, repair, and deactivation of merchant ships chartered under the jurisdiction of the Secretary of Commerce.

House Joint Resolution 613 would provide that the vessel operations revolving fund shall be available beginning July 1, 1956, for expenses incurred in connection with the activation, repair, and deactivation of merchant ships chartered under the jurisdiction of the Secretary of Commerce. In addition, it provides that there be credited to such fund all receipts on account of operations after July 1, 1956, under charter of Government-owned ships under the jurisdiction of the Secretary of Commerce.

The vessel operations revolving fund was created by the Third Supplemental Appropriation Act, 1951, approved June 2, 1951 (Public Law 45, 82d Cong.; 65 Stat. 52 at 59). In that act there was appropriated $20 million for working capital for a revolving fund which was created for carrying out vessel operating functions of the Secretary of Commerce, including charter, operation, maintenance, repair, reconditioning, and betterment of merchant vessels under the jurisdiction of the Secretary of Commerce. All receipts from vessel operating activities conducted under said fund were directed to be credited to the fund. The Second Supplemental Appropriation Act, 1956 (Public Law 533, approved May 19, 1956), contains a provision authorizing the use of the vessel operations revolving fund for activation, repair, and deactivation of merchant ships chartered under the jurisdiction of the Secretary of Commerce. It does not contain any provision relating to deposit of receipts from such charter into the fund. The Department of Commerce and Related Agencies Appropriation Act, 1957, reported to the Senate May 23, 1956 (S. Rept. 2039), includes a provision that the vessel operations revolving fund shall be available for activation, repair, and deactivation of merchant ships chartered for limited emergency purposes during the fiscal year 1957 under the jurisdiction of the Secretary of Commerce.

The provisions in H. R. 10987 and House Joint Resolution 613 are permanent in character and House Joint Resolution 613 specifically provides that receipts from the chartering of merchant ships by the Secretary of Commerce shall be credited to the revolving fund.

In recent months the demand for tonnage to move foreign and domestic commerce of the United States, including cargoes under various governmental agency programs, has caused such an increase in rates that offers received from private owners for the use of their vessels are now deemed to be in excess of fair and reasonable rates. Early in April a meeting of representatives of various agencies of the United States with representatives of the Maritime Administration was held. Representatives of principal shipping agencies, including the Department of Agriculture, the International Cooperation Administration, General Services Administration, and Military Sea Transportation Service, emphasized the difficulties encountered in obtaining United States-flag ships at fair and reasonable rates, and further reported that foreign-flag operators were offering ships at greatly increased rates at times in excess of rates deemed by the Maritime Administration and Government agencies to be fair and reasonable for United States ships.

Applications for charter of Government ships have been received from private companies. One application has been for use in the intercoastal trade and another has been for use in the operator's regular liner service. It appears that the need for the latter is in part necessitated by shortage of space for movement of surplus agriculture commodities, such as cotton, grain, and grain products.

It appears that most of the Government shipping agencies cannot program shipments over periods long enough to warrant employment for sufficient time to amortize the cost of breakout and reconditioning of vessels in addition to the cost of operation. In view of the present market conditions and their impact on the movement of Government-sponsored cargoes as well as on the ocean transportation of foreign and domestic commerce of the United States, the Maritime Adminis-

tration, Department of Commerce, should have available for its use the vessel operations revolving fund in order to pay expenses incurred in the breakout, reconditioning, and lay-up of Government vessels for charter to private operators.

Government-sponsored programs, such as International Cooperation Administration and the Agriculture Department, require tonnage in excess of United States-flag privately owned shipping available. Freight rates have increased markedly and it is believed that the orderly release of Government ships under bareboat charter would serve to stabilize the market and at the same time have less adverse effect on private owners than a Government general agency operation. It is believed that more direct control over shipping services and cargoes which would exist under general agency operation is not necessary under existing circumstances. It is believed that the breakout of limited numbers of Government vessels for operation under private charter will have a monetary advantage to the Government, in that the receipts from charter hire would be credited against the cost of the breakout and lay-up of vessels. Government financing of the breakout is necessary since not all desirable programs are large enough to finance the breakout and reconditioning by amortization in connection with the charters.

The use of the fund, as proposed, will secure better performance of the chartering authority under section 5 (e) (1) of the Merchant Ship Sales Act of 1946, as amended. If applicants for charter are required to assume breakout, reconditioning, and layup costs, in addition to the prescribed statutory rate, it is believed that the Administration will be prevented from chartering vessels in circumstances which meet the purpose of section 5 (e) (1). That section authorizes chartering to meet necessity for services where private vessels are not available at reasonable rates. If the applicants for charter assumed the breakout costs in addition to the statutory rate, the freight rate would necessarily be raised to a point regarded as unfair and unreasonable.

It is our view that House Joint Resolution 613 is preferable to the H. R. 10987, particularly because it provides that chartering receipts shall be credited to the revolving fund, which is in accord with the original concept of the fund.

This Department, therefore, recommends enactment of House Joint Resolution 613.

We have been advised by the Bureau of the Budget that it would interpose no objection to the submission of this report to your committee.

Sincerely yours,

(Signed) SINCLAIR WEEKS,
Secretary of Commerce.

There are no changes in existing law.

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Calendar No. 2673

84TH CONGRESS, 2d Session | SENATE | REPORT No. 2628

AUTHORIZING THE PANAMA CANAL COMPANY TO CONSTRUCT BRIDGE OVER THE CANAL

JULY 18 (legislative day, JULY 16), 1956.—Ordered to be printed

Mr. MAGNUSON, from the Committee on Interstate and Foreign Commerce, submitted the following

REPORT

[To accompany H. R. 9801]

The Committee on Interstate and Foreign Commerce, to whom was referred the bill (H. R. 9801) to authorize and direct the Panama Canal Company to construct, maintain, and operate a bridge over the Panama Canal at Balboa, C. Z., having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

PURPOSE OF THE BILL

H. R. 9801 is designed to discharge the obligation incurred by the United States under the terms of point 4 of the general relations agreement entered into with the Republic of Panama on May 18, 1942, to construct a tunnel under or a bridge over the Panama Canal at Balboa, C. Z.

The bill designates a high-level bridge as more desirable than a tunnel (estimated cost of bridge $20 million, as against $38 million for a tunnel); provides that the construction, maintenance, and operation of any such bridge and the approaches thereto should be administered by the Panama Canal Company; and that the expenses of construction, maintenance, and operation of such bridge and the approaches thereto should be treated as extraordinary expenses incurred through a directive based on national policy and not related to the operations of the Panama Canal Company.

Section 2 of the bill authorizes and directs the Panama Canal Company to construct, or to cause to be constructed, and to maintain and operate a high-level bridge, including approaches, over the Panama Canal, at Balboa, C. Z.

Section 3 authorizes the appropriation of such amounts as may be necessary to carry out the provisions of the act.

BACKGROUND OF THE BILL

The commitment to build the bridge or tunnel at Balboa was made in connection with the agreement entered into in 1942 by this country as part of the consideration for the grant by Panama of the use of defense sites within that country during World War II. Delay in implementing this agreement, the Department of State has reported, has occasioned charges of bad faith and has become a source of friction with the Republic of Panama, even though the committee has received assurances from a reliable source that the present ferry and swing bridge are adequate to handle any foreseeable future passenger and automobile traffic. The matter was taken up again, at the instance of Panama, in discussions leading to the treaty with the Republic of Panama approved by the United States Senate in July 1955. During those discussions this Government agreed to seek the required authorizing legislation and appropriations for construction of the bridge.

Enactment of this bill would seem to be desirable, therefore, as a means of improving relations between this country and the Republic of Panama.

The Panama Canal Company, in its report on the bill emphasized—

> It is considered important that a declaration such as that contained in section I be included in the proposed legislation since the construction of the proposed bridge is not necessary to the operations of the Company but, rather, is the result of national policy considerations involving general relations with Panama.

The General Accounting Office report, appended, opposes treatment of costs of the bridge, and so forth, as extraordinary expenses not related to the operations of the canal, and recommends that all costs of maintenance, operation, and depreciation, be recovered through tolls.

This committee feels, however, that the bill should be enacted in its present form.

The official reports are appended.

There are no changes in existing law.

DEPARTMENT OF STATE,
Washington, July 9, 1956.

Hon. WARREN G. MAGNUSON,
Chairman, Committee on Interstate and Foreign Commerce,
United States Senate.

DEAR SENATOR MAGNUSON: I refer to your letter of July 5, 1956, in which you requested the views and recommendations of the Department relative to H. R. 9801, a bill to authorize and direct the Panama Canal Company to construct, maintain, and operate a bridge over the Panama Canal at Balboa, C. Z., which upon passage in the House of Representatives has been referred to your committee in the Senate.

The reference bill would authorize the carrying out of a commitment originally undertaken by this Government in 1942 as part of the consideration for the grant by Panama of the use of defense sites within her jurisdiction in World War II. The delay by this Government in acting upon this undertaking in the postwar years, however justifiable, has subjected this Government to charges of bad faith and the matter became a source of friction in relations with Panama.

Therefore, in the memorandum of understandings reached, signed with Panama in January 1955, this Government agreed to seek the necessary authorizing legislation and appropriations for the construction of the bridge referred to in the 1942 undertaking.

It is the view of the Department that the carrying out of this commitment will remove a long-standing irritant in our relations with Panama and will contribute significantly to the improvement and strengthening of these relations. The Department accordingly recommends prompt and favorable action by the Senate on H. R. 9801.

Sincerely yours,

ROBERT C. HILL,
Assistant Secretary
(For the Secretary of State).

PANAMA CANAL COMPANY, *July 9, 1956.*

Hon. WARREN G. MAGNUSON,
Chairman, Committee on Interstate and Foreign Commerce,
United States Senate, Washington, D. C.

DEAR SENATOR MAGNUSON: I have your request for a report on H. R. 9801, a bill to authorize and direct the Panama Canal Company to construct, maintain, and operate a bridge over the Panama Canal at Balboa, C. Z.

The general relations agreement between the United States and Panama effected by an exchange of notes signed at Washington on May 18, 1942 (Executive Agreement Series 452, 59 Stat. 1289), contained a number of commitments on the part of the United States, most of which have been fulfilled. The agreement was related to, and was, in effect, the counterpart of, an agreement covering the lease of defense sites signed at Panama on the same date (Executive Agreement Series 359, 57 Stat. 1232). Provision for the carrying out of certain of the commitments was made by a joint resolution approved May 3, 1943 (57 Stat. 74).

Point 4 of the 1942 agreement concerning the construction of a tunnel or bridge over the Panama Canal at Balboa, C. Z., is one of the few remaining commitments which have not yet been fulfilled. Point 4 of the 1942 agreement reads as follows:

"*4. The construction of a tunnel or bridge to allow transit under or over the canal at Balboa.*—The Government of the United States is well aware of the importance to the Government and the people of Panama of constant and rapid communication across the Panama Canal at Balboa and is willing to agree to the construction of a tunnel under or a bridge over the canal at that point, when the present emergency has ended. Pending the carrying out of this project, the Government of the United States will give urgent attention, consistent with the exigencies of the present emergency, to improving the present ferry service."

Item 5 of the memorandum of understandings reached, accompanying the recently ratified 1955 treaty with Panama, assures Panama that legislative authorization and the necessary appropriations will be sought for the construction of a bridge at Balboa referred to in point 4 of the general relations agreement of 1942.

H. R. 9801 would authorize and direct the Panama Canal Company to construct, maintain, and operate a high-level bridge over the Pan-

ama Canal at Balboa, C. Z., in accordance with the 1942 and 1955 agreements.

The cost of such a bridge is estimated at $20 million and is recommended as compared to a tunnel under the canal which would cost an estimated $38 million. The planning and execution of the project would, of course, be covered in the annual budget programs of the company.

Section 1 of H. R. 9801 would provide that the expenses of construction, maintenance, and operation of the bridge and approaches thereto should be treated as extraordinary expenses of the Panama Canal Company incurred through a directive based on national policy and not related to the operations of the Company. This language relates to the provisions in the Panama Canal Company Act (pars. (b) and (d) of section 246 of title 2 of the Canal Zone Code (62 Stat. 1076, 64 Stat. 1041)) which have the effect of excluding the amount of such expenditures from the net direct (interest-bearing) investment of the United States in the Panama Canal Company.

It is considered important that a declaration such as that contained in section 1 be included in the proposed legislation since the construction of the proposed bridge is not necessary to the operations of the Company but, rather, is the result of national policy considerations involving general relations with Panama.

The Bureau of the Budget has advised that there is no objection to the submission of this report but that it recommends that the committee consider amending the bill to provide for recovery by the Panama Canal Company, through tolls or other changes, of the costs of operation and maintenance, including depreciation, of the proposed bridge.

Sincerely,

W. M. WHITMAN, *Secretary.*

COMPTROLLER GENERAL OF THE UNITED STATES,
Washington, July 9, 1956.

Hon. WARREN G. MAGNUSON,
Chairman, Committee on Interstate and Foreign Commerce,
United States Senate.

DEAR MR. CHAIRMAN: Your letter of July 5, 1956, acknowledged July 6, requests our comments upon H. R. 9801 which provides for the construction, maintenance, and operation of a high-level bridge over the Panama Canal at Balboa by the Panama Canal Company.

At the present time the Canal Zone Government has jurisdiction over and responsibility for roads, streets, and highways in the Canal Zone. It is our view that the bridge authorized by H. R. 9801 should be constructed and maintained by the Canal Zone Government rather than by the Panama Canal Company.

Under the bill the expenses of construction, maintenance, and operation of the proposed bridge and its approaches would be treated as extraordinary expenses incurred through a directive based upon national policy and not related to the operation of the Panama Canal Company. We disagree with such a concept. The net costs of operation and maintenance of the existing ferry system are recovered through tolls collected from vessels utilizing the canal. We are of the view that the canal enterprise should be self-sustaining. The need for the bridge is a direct result of the construction of the canal bisect-

ing the Republic of Panama and should involve no burden upon the United States taxpayers. This would be accomplished if the bridge were to be constructed and maintained by the Canal Zone Government because the Company is required to reimburse the Treasury annually for the net cost of Canal Zone Government, including depreciation. Thus the Panama Canal Company would recover through tolls and other charges all expenses relating to the new bridge.

We also recommend that the act of May 27, 1930 (46 Stat. 388, 2 Canal Zone Code 341), be repealed as of the date the high-level bridge is placed in operation. That bridge will eliminate the need for and expenses of operation of the present ferry service and probably will eliminate the need for the continued operation of Miroflores swing bridge. The Panama Canal Company operating reports indicate that the cost of operating this swing bridge together with the operating costs of the ferry system amount to approximately $700,000 annually.

We assume that the Bureau of Public Roads has or will be requested to furnish your committee with its recommendations concerning the proposed bridge and the desirability and feasibility of integrating that bridge and its approaches into the Inter-American Highway System.

Sincerely yours,

JOSEPH CAMPBELL,
Comptroller General of the United States.

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84TH CONGRESS
2d Session

SENATE

REPORT
No. 2629

DEFENSE ESSENTIALITY AND FOREIGN ECONOMIC POLICY

CASE STUDY: WATCH INDUSTRY AND PRECISION SKILLS

REPORT

OF THE

JOINT ECONOMIC COMMITTEE

CONGRESS OF THE UNITED STATES

JULY 18 (legislative day, JULY 16), 1956.—Ordered to be printed

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CONTENTS

	Page
I. Reasons for the study	1
A. Previous study of the subcommittee	1
B. New prominence to ODM	2
C. The watch case	2
D. Arrangement of the report	3
II. Criteria for defense essentiality	4
A. The nature of possible wars	4
B. Definition of national security	4
C. The mobilization base	7
D. Manpower skills	9
E. Guides to selecting criteria	10
III. Watches as a case study	11
A. Arguments for essentiality offered by domestic jeweled-lever watch manufacturing proponents	11
(1) Essentiality already established	11
(2) Patriotic, not commercial, interests dominate	12
(3) Wars can be long	12
(4) Pool of skills	12
(5) Need for watches in war	13
(6) Timing mechanisms important in war	14
(7) Military production of watch industry	14
(8) Low wages cause difficulty	14
(9) Swiss watch exports unimportant	15
(10) The Swiss watch cartel	15
(11) Upjeweling and adjustments	16
B. Argument against essentiality offered by importers of watches and their supporters	18
(1) Inconsistency in requirements	18
(2) Availability of other producers	19
(3) Limited need for more watches	20
(4) Technological change in watches	21
(5) All industries essential in war	22
(6) Military subsidies	22
(7) Repercussions from restrictions	23
(8) Trade restrictions limited help	23
(9) Alternatives to trade restrictions	24
(10) Attack on American business	25
(11) Swiss technical superiority	25
(12) Prosperity of American watch industry	26
C. Observations about watches	26
(1) Significance of jewel bearings	26
(2) Watch costs and prices	27
(3) Statistical assessments	27
IV. Conclusions and recommendations	28
A. General:	
(1) National security is worldwide	28
(2) Mobilization thinking must be flexible	28
(3) We must judge priorities and degrees of essentiality	28
(4) Forces in being rather than conversion of industry afford a stronger defense	28
(5) Thermonuclear war cannot be prepared for by traditional mobilization thinking	28
(6) Peripheral wars also require forces in being and foreign allies	28
(7) Economic cooperation as well as military defense is important to national security	29

90005°—57 S. Rept., 84-2, vol. 5——15

IV. Conclusions and recommendations—Continued
A. General—Continued
(8) Economic strength requires aggressive development of modern technology ---- 29
(9) Critical manpower skills can be met best by long-term measures to increase ability to meet new needs ---- 29
(10) Relative degrees of essentiality must be judged ---- 29
(11) We cannot freeze industrial capacity or manpower and best serve national defense ---- 29
(12) Several courses are open to aid the few industries which may need assistance for them to serve defense ---- 29
(13) We need consistent, positive policies for our foreign relations and national security ---- 30
(14) ODM is now best prepared to fight World War II rather then new greater challenges ---- 30
(15) The system of industry application for defense essentiality relief requires great caution in use ---- 30
B. Watches:
(1) Restricting watch imports is not necessarily the desirable course ---- 30
(2) Watches are unlikely to be manufactured in a major war ---- 31
(3) Watch requirements in war will be filled from stock piles, requisitions, or imports ---- 31
(4) Microprecision skills are not unique to watch companies ---- 31
(5) Protection of the watch industry will not guarantee its health ---- 31
(6) Trade restrictions on watches will hurt national security ---- 31
(7) The Swiss watch cartel problem has little relevance to defense essentiality ---- 31
(8) Undue emphasis on jewel counts is not in the public interest ---- 31
(9) The 1954 watch industry decisions were backed by little acceptable evidence of necessity ---- 31
(10) The 4,000 jeweled-lever watch employment figure is not realistic in measuring defense needs ---- 32
(11) Jewel bearing requirements have been exaggerated ---- 32
Additional comment by Senator Flanders ---- 32
Additional comment by Representative Talle ---- 32

84TH CONGRESS } SENATE { REPORT
2d Session } { No. 2629

DEFENSE ESSENTIALITY AND FOREIGN ECONOMIC POLICY

CASE STUDY: WATCH INDUSTRY AND PRECISION SKILLS

JULY 18 (legislative day, JULY 16), 1956.—Ordered to be printed

Mr. DOUGLAS, from the Joint Economic Committee, submitted the following

REPORT

The following report of the Joint Economic Committee was prepared and approved unanimously by the Subcommittee on Foreign Economic Policy composed of Representative Bolling (chairman), Senators Douglas, Fulbright, and Flanders, and Representative Talle. The findings and recommendations presented are based upon the subcommittee's hearings and study of defense essentiality, using the watch industry as a case study. The report of the subcommittee was approved for transmission to the Congress by the full committee on July 18, 1956, and will be given further consideration during the coming months in connection with preparation for the committee's report on the 1957 Economic Report of the President. Some members of the full committee who are not on the subcommittee wish to point out that while they have approved the transmission of the report to the Congress they do not necessarily agree with all the conclusions of the report.

I. REASONS FOR THE STUDY

The Subcommittee on Foreign Economic Policy was created pursuant to the authority contained in the March 14, 1955 report of the Joint Committee on the Economic Report (pp. 4 and 5). It held hearings in November 1955, reviewing a wide range of considerations affecting our foreign economic policy. During the course of those hearings, limited attention was given to the argument that trade

restrictions may be required for reasons of national defense. The testimony received on this subject was in part so contradictory that the ensuing report of the Joint Committee to the Congress on January 5, 1956, stated (p. 28):

> It is also evident that much greater study is required of the very concept of the mobilization base. There is question whether the present tests of defense essentiality reflect realistically the changing nature of war. * * * Differences of opinion among witnesses make clear that further study of these problems is required in the light of new conditions.

The recommendation of the report was (p. 31):

> Further study is required of the whole concept of defense essentiality if it is not to dominate over other necessary factors in trade policy. Not only should impartial criteria be discovered, but the whole concept of the mobilization base in the light of evolving military strategy should be reviewed.

It is important to state the general finding of the subcommittee to the effect (p. 28):

> There is a valid argument in favor of trade restrictions to aid national defense, but the case requires careful qualification.

This makes clear that the problem was regarded by the subcommittee with an open mind combined with a degree of skepticism toward some of the arguments which had been presented up to that time.

The Congress in 1955 made a part of the Trade Agreements Act a section 7 which provided the Office of Defense Mobilization with the authority to advise the President to take such steps as are necessary to modify trade policy as the national defense may require. It is not within the purview of this subcommittee to make a specific study of that piece of legislation. But the law did provide a new rationale whereby some industries, denied other forms of relief from foreign competition, might advance a "national defense" argument as the next resort to the solution of their problems.

The Office of Defense Mobilization to the present time has taken few overt steps to change trade rules. On April 5, 1956, that office announced that it was starting a study, as its first under the authority of the Trade Agreements Act, on the domestic watch and clock industry, with the initial phase of that study limited to the jeweled lever segment of the watch industry. By early May 1956, as many industries had applied to the Office of Defense Mobilization for relief from foreign competition on the grounds of defense essentiality as there were pending applications before the Tariff Commission for relief under the escape clause.

The combination of these events and the continuing interest of the subcommittee made clear the desirability of a study of the defense essentiality arguments being advanced. Previous governmental decisions regarding the watch industry have given rise to such controversy that it seemed a timely and valuable industry to select as a case study.

Accordingly, letters of inquiry on the analytical approach used by

various agencies of the Federal Government in studying defense essentiality were sent out, and public hearings were held in the period of June 4 through June 8, 1956, to explore general concepts and the details of microprecision manufacture so important to modern warfare. The Director of the Office of Defense Mobilization appeared before the subcommittee to interpret the views and procedures of the executive branch of the Government in meeting mobilization base problems.

This report summarizes the highlights of those hearings, to bring into as sharp focus as possible the contrasting views of various witnesses, to identify what questions still remain, and the points which it was possible to resolve. This summary of the latter points should not be construed as a prejudging of any actions which the Tariff Commission, the Office of Defense Mobilization, and other parts of the executive branch of the Government, or the Congress may take in the future, for it has not been possible to resolve all doubts in so short an inquiry. But it is our hope that our painstaking review of a considerable body of evidence will ease the difficulties of the several agencies which will have occasion to study our published record of the hearings for the light which they throw on problems of defense essentiality and foreign-economic policy. As Dr. Arthur S. Flemming, Director of the Office of Defense Mobilization, stated:

> * * * I feel that the committee is to be congratulated on developing plans for a hearing of this kind. I am confident that the testimony that has been presented to this committee will be of real help to us in considering various matters that we will be called upon to consider in this area.

The report which follows accordingly concerns itself with an analysis of changing world conditions, the implications for military strategy, and the problems of choosing the right economic environment for the protection of national security. Having offered these observations based on expert testimony, the general principles which emerge are tested against the problems associated with the watch industry. Choosing a specific industry illustrates that general principles can be used in a particular case, but that they are easily obscured in the complexities and irrelevancies which inevitably are associated with any concrete example surrounded by historical antecedents and by strong pressure interests. It is not always easy to identify the national interest.

We have deliberately included in the discussion major points brought forth by witnesses who felt their views should appear in the record even though many of these points relate to side issues and other battles than those of defense essentiality. Their inclusion will suggest the atmosphere within which responsible executive and congressional agencies must make their decisions for the national good.

As persuasive as some of these subsidiary arguments may be to the reader, we will make every effort to keep these points in proper perspective to the whole subject. No directly interested party will be satisfied with our treatment of their favorite views, but we hope others will find this report instructive.

II. Criteria for Defense Essentiality

A. THE NATURE OF POSSIBLE WARS

Although it can be hoped that the terrible costs to human welfare which wars bring can be avoided, ordinary prudence requires that all nations including our own consider the range of potential threats and their implications for national security. It is clear that no one can read the future with accuracy, nor prepare to meet every possible contingency. National strategy, first having in mind basic objectives, therefore, consists of assessing various potential threats and the responses which should be made considering the relative probability of the threats, their relative seriousness to national survival, and the relative costs, broadly conceived, to our national resources and well-being in meeting these challenges.

For purposes of convenience, and symptomatic of the range of economic requirements and policy determinations which may be called for, we can identify (without reference to the likelihood of each occurring) the following alternative conditions of national existence in the modern world:

(*a*) Stable conditions with no likelihood of war as we have known it because of a widespread desire for peace and the means for international guaranties of such peace, including a foolproof system for inspection against danger of surprise attack.

(*b*) No military war, but intensified efforts by competing states or blocs of states to obtain economic, political, and ideological advantage through such means as expanding trade relations, providing foreign aid and investment, and the stimulating of nationalistic ambitions in third countries. Subversion and propaganda efforts are additional devices.

(*c*) Elements of (b), plus civil strife and other localized wars which may represent an economic and social drain, but do not call for use of full-scale mobilization or major weapons.

(*d*) The peripheral war which is still limited geographically, but which requires a fairly heavy commitment of men and materiel, and which may or may not include tactical use of nuclear weapons.

(*e*) General war which engulfs much of the world but which for some reason does not include significant use of nuclear weapons or toxic warfare against the main industrial centers of the contending big powers.

(*f*) Virtually unlimited war with such combinations of thermonuclear, radiological, chemical, and biological attack as seem worth attempting by the contending forces.

Finally, it should be noted, the logistics requirements and economic consequences of several of the foregoing conditions can vary considerably with the geographic areas of the world involved, the identities of the combatants and neutrals, and the scale of operations.

B. DEFINITION OF NATIONAL SECURITY

National security refers to the basic survival of the people of the country and their important institutions. Broadly conceived, we tend to include not only physical existence in the absolute sense but we are also concerned with our spiritual well-being, social welfare, economic prosperity, national sensibilities and such personal comfort as may be important to us.

The national security can be viewed as defended by two general approaches: the first often labeled "continental defense," and the second, "international cooperation." There was a time when the former might have been considered seriously, because there was a possibility of making this continent impregnable against major attack, and commitments to allies were thought merely an added burden. In any case, if we did become involved in foreign wars, our homeland could become the "arsenal of democracy." In fact, of course, nearly all of our wars have involved close relations with other nations for material and moral support.

Now we have frankly and openly adopted the course of international cooperation, both in peace and war, because no other route is offered to us. There is no longer a choice, for changing conditions have made it sheer necessity. Our own vital interests extend into many parts of the world, and the fate of other nations in any case ultimately will affect our own, if they fall under the control of ruthless and ambitious rivals. Outlying bases and allies are necessary in a mutually supporting effort to warn against sudden attack and to stage most effectively any massive counterblow. These same needs for world links are present to guard against and to wage peripheral wars as well as general conflicts. And clearly, if the cold war has turned toward intensified economic competition rather than immediate warfare with military weapons, many international ties are equally crucial.

Let us examine in greater detail elements of concern in defending the nation, whether viewed from the popular though incomplete and impractical continental defense, fortress America, viewpoint, or from the broader view of international cooperation. For clearly, the security of the United States and of other nations willing to live in harmony is of the greatest importance to all of us, and is of the highest concern to this subcommittee. Consistent recognition of the realities of the choices of strategy open to us in turn will have profound effects on the decisions taken to protect the national security.

The national security is defended by the elemental factors of geographic conditions and man-taken measures of protection such as air-warning, internal policing, and various intelligence operations, plus more positive military preparations when force has to be used as an instrument of policy. Oceans, Arctic wastes, and mountain ranges are a part of our geographic defense together with such important facilities as air and naval bases in parts of the world remote from our shores. Similarly, internal policing to maintain law and order must be supplemented by worldwide flows of intelligence information to anticipate and nip in the bud many difficulties before they become unmanageable. Our positive military preparations even in a period of intercontinental bombers and missiles are predicated upon having allies.

Protection of national security is based upon long-term and short-term factors, both of which are important. In a world of rapid technological development and political surprise, the relative importance of different elements is subject to considerable change, and requires constant review. Thus our geographic position and resources may seem to be relatively fixed, but even their roles clearly change. The formerly impassable Arctic has become an air bridge, and rare materials

found in remote parts of the earth have assumed a new importance in advanced technology.

Our industry, commerce, and financial system are even more dynamic, and their growing complexity is both a strength and a weakness. The comparative level of technology and availability of manpower skills in competing countries are increasingly important factors in national security. In the short run, it is forces in being which count, but equally important is the long-run assessment of where we are going in our abilities to create the instruments of military power and of peaceful influence. Our political and social institutions are added important elements in national security as are our national spirit and our cultural heritage. Clearly where it is possible to quantity, the absolute levels and the rates of change of these natural and human resources are important to national security; in any event we must consider the adaptability of all tangible and intangible factors which affect our security.

We have said national security relies upon weapons and forces in being, and upon the industrial and manpower base required for logistic support. But true, too, national survival may depend upon many additional elements. As one example, firm roots in American traditions of liberty and individual worth, and a developed, mature philosophy toward life on the part of our people may be one safeguard against destruction of our institutions by subversion or simple neglect. Another example may be found in measures to stimulate the spirit of hope and progress in other countries, through growing economic relations and cultural interchanges, so that the countries whose governments are predicated on individual freedom and worth may develop a feeling of unity sufficient to offset the danger of piecemeal surrender to totalitarianism through loss of hope. We need to encourage economic and cultural relationships with other powers so that their territories, airbases, resources, and manpower do not come under the control of military rivals, and do remain available to the cause of freedom. This would be true either to stave off thermonuclear war or to prevent or win a peripheral war. (No contestant would win a thermonuclear war, even though it could be lost.)

It seems particularly important to repeat and to emphasize that national security is broader than continental defense and military force. Isolation might have been considered once but now almost every policy must be judged in light of our interdependence with the rest of the world for resources, markets, technical advances, and finally for sufficient understanding and good will to refrain from mutual annihilation through weapons of unparalleled danger to the continuance of life on the planet

Indeed it is this broader view of national security which must prevail under the conditions of the modern world that is the justification for the Subcommittee on Foreign Economic Policy making such a study as this. Continental isolation either in peace or war will not work, and this is the balance of judgment which carried us to lend-lease, World War II, the United Nations, the Marshall plan, Greek and Turkish aid, NATO, the Korean war, and the many other programs of the last several administrations. In general there has been bipartisan support for the thesis that a vigorous and growing world economy, with a strong community of interest among nations, represents the best opportunity for the world to avoid war and for this

community of nations to be equal to winning wars against aggressor states when they start wars.

C. THE MOBILIZATION BASE

It is a part of national prudence, while hoping for the best, to be prepared for the worst. This is a responsibility of any government which is not to flirt recklessly with national disaster. Some of the measures are immediate in applicability. Others are longer range in nature. Radar and sky watcher warning systems and strategic air forces capable of dealing strong retaliatory blows are obvious immediate necessities. Of longer range importance are measures to keep our total national productive capacity high, as well as able to produce at the time required and in the quantities needed items incorporating the most advanced technology. This objective requires adequate absolute levels and good growth rates in industry, effective research and development, and a fresh flow of manpower highly educated and trained for military and essential civilian activities. With these general principles there can be little disagreement.

The mobilization base concept is not new, but received serious attention at the time of World War I because we were so poorly prepared then by readiness and experience to turn ourselves into an arsenal of production for the Allied cause. In the years that followed, preparedness thinking was carried on by a few specialists until the outbreak of World War II once again made our productive might, located safely across the oceans from the main areas of combat, the factor which turned the tide against the Axis and brought victory. In both of those wars, this country was late to join, and had the opportunity to convert its industry. In the second of the wars, our tools of control and allocation were more highly developed.

It was natural that the experience of these two wars should encourage defense preparations based upon mobilization plans which on signal would allow selected industries to change to the production of military goods, and that logistic planning should become a highly developed science. This study and foresightedness is commendable as far as it goes, but it is not fully adequate to the needs of today. The changes which are occurring are partly technological and partly world political.

Any mobilization base concept must be given constant review if it is to keep pace with changing world conditions and national needs. Clearly, the classes of international existence identified in this report call for different economic prescriptions to meet each one, and it would be the height of foolhardiness to risk destruction of the Nation by simply picking either 1 or 2 possible emergencies, and tailoring all mobilization plans to meeting those limited cases. The obvious answer would seem to be that we must marshall our resources to meet any eventuality. This of course implies that we shall have the time to convert our peacetime industry to the production of war goods, an increasingly unlikely situation. But let us assume this is still possible. Restricting the discussion for the moment to primarily industrial capital and manpower requirements, one can conceive of an attempt to direct resources so that we have a base to meet all possible eventualities.

However, even the strongest nation on earth is limited in its ability to organize itself against all eventualities. We have had to limit

our forces in being to the point where the individual branches of the armed services must compete for limited resources of men and materials. Every aircraft designed must make compromises among the factors of speed, range, maneuverability, armaments, navigation equipment, armor, ease of construction and repair. We want to give our crews every advantage, but we forego some improvements. This does not mean that the human crew is regarded as less important than economy. On the contrary, for each potential use for an aircraft, the design represents that compromise which will give the best chance for the plane to accomplish its mission and bring the crew home. An all-purpose, all-protective aircraft could become so heavy as never to leave the ground. The mobilization base concept also must involve compromises. The economy of the Nation, in a sense, does have to be all-purpose, but if it is to be viable, it must be based upon a sound rationale of the tasks to be carried out and the means for accomplishing them. This implies a system of relatives and the necessity for decision making to establish priorities, based not alone on probabilities but upon the seriousness of the consequences of miscalculation.

Consideration of plans for a mobilization base cannot be foregone just because there are conditions under which it might not be important. But it does not follow either that a mobilization base tailored after the pattern of World War II and the Korean conflict can be accepted uncritically. The probability that in a major war the big powers would use nuclear weapons is very great, and cannot be compared with failure to use stocks of poison gas in World War II. No one has found a clear way to distinguish between military and civilian targets in an all-out effort, and no power has the technology yet to blunt a determined nuclear attack sufficiently to save that country's national identity. This is why many students of the problem believe our economic and industrial effort must be based upon a threefold approach, not one of which is the traditional mobilization base concept. One part must be to keep our industrial system so strong, flexible, and expanding that it can help win the economic-political world battle without resort to arms, except as policing actions occasionally put minor demands upon our production. A second part must be to build our forces in being to such a state of readiness as to act as an effective deterrent until workable international controls are accepted. The final part should be a more realistic facing of the immensity of the survival task if unwanted general war should arrive.

Some authorities have hopefully suggested that even if thermonuclear war should arrive, that first destructive phase in which we might easily lose half our population and two-thirds of our industry would still be followed by a "phase two," in which traditional mobilization base planning has a role as we would rebuild our forces to carry a long, conventional war to enemy shores. It is very hard to accept this view as either a fair interpretation of military strategy as it would evolve after thermonuclear attack, or that any industrial preplanning would be able to anticipate postattack needs adequately. The real task for any country which has been exposed to such attack would be to try to save some small part of human civilization for those who survived both the initial attack and the chaos following in the wake of such a breakdown of community services and economic and social life.

D. MANPOWER SKILLS

Perhaps the greatest asset of any nation is its people. No resources, no location automatically give productivity or military defensive strength, particularly as transportation overcomes previous barriers to movement. Numbers of people are important if the labor force is to be capable of manning a diverse and specialized interdependent economic system, and if the military forces are to have their personnel requirements filled. In a military contest between major powers, their absolute population levels, their population pyramids, and their net reproduction rate trends are of significance.

But of overriding significance are the qualities of the people. Their aspirations and their steadfastness are important, together with their native intelligence and their physical fitness. So, too, is leadership, whatever form of government and social organization is adopted. Our interest now, however, centers on the acquired skills of the work force of the population. This is a paramount consideration in an age so dependent upon advanced technology and in which this revolution is proceeding at breakneck pace.

Requirements for skills can be viewed in short-run and long-run terms. In the short run, we must have the pilots and the radar technicians to fill military billets. We must have the production workers with their background of experience and training to perform the current manufacturing and transporting work the economy requires. Recruitment for immediate needs depends upon the availability of people with experience for the more difficult jobs and with good aptitudes for the jobs which take less training.

The long-run meeting of manpower needs is both more difficult and requires a greater ability to foresee complicated relationships among policies. The most critical of the manpower skills are ones which require the greatest foresight to provide. They require the acquisition of a wide range of basic skills and knowledge. Without minimizing the importance of humanistic education, which is important to the preservation of our institutions and our traditions, we must in this context center our attention on scientific and engineering skills. They are the key to continued technological progress, and technological progress may very well determine our national survival. Clearly, we cannot create good scientists or pursue basic research on a crash basis and expect optimum results therefrom. Only long-range programs starting early in the school career, guided by good teachers and supported by proper equipment, are going to yield adequate results. So, too, must basic research be supported without regard to shifting international relations or economic conditions at home. Finally, in the applied field, there must be opportunity for teams of scientific, engineering, and toolmaking talent to work together and to develop capabilities for meeting fresh challenges brought by rapidly evolving technical requirements.

The Joint Economic Committee has studied the problems of automation, and has found that automation is an extension of processes long underway in our industrial society. The newer aspects of automation not only are accelerating productivity in industry, they are also changing manpower requirements qualitatively. Now more than ever, the scientist and the engineer, and the highly skilled tool and die maker are the controlling factors in attaining production goals for advanced military hardware items and essential civilian products.

The rapid obsolescence of existing weapons and equipment, and the great variety of challenges we face all emphasize that no pool of skilled workers can be frozen in a stockpile and then necessarily satisfy the highest priority of national needs. The constant development of versatility and the expanding capability to meet fresh challenges are of greater importance.

This suggests that the business and social environment in which skilled workers find themselves may be important to maintaining and expanding both numbers and skills, as well as providing incentives for performance at a very high level. Our system looks to competition and the desire for material and social well-being as the means for attaining these ends, rather than either compulsion or complacency. We do not threaten people with penal servitude for failure to reach production goals, but neither do we get best results from those largely sheltered from competition. This is parallel to the situation where an industry feeling some pressure from rivals is more likely to be progressive than one which has a guaranteed market. Scientists and engineers are encouraged to work by individual financial incentives, and these should not be neglected. But these professions also require the status and general level of rewards which will insure that some of our best potential talent will elect work in sciences and engineering, and that the highest grade of graduates are available for teaching staffs. We must see that those of high ability have the opportunity as well as the incentive to acquire the training the country needs.

E. GUIDES TO SELECTING CRITERIA

In the preceding subsections of this report there has been brief analysis of the meaning of national security, of the nature of war, of the mobilization base, of manpower skills. Perhaps most of the points made find general acceptability in this country. But general principles need implementation, and then specific and very complex issues must be faced and resolved. This requires both understanding and a machinery for decisionmaking. The understanding must come to the general public and the Congress as well as to those officials of the executive branch who control the particulars of individual situations. Everyone concerned must appreciate the importance of a well-thought-out program of long-run building of national abilities both in industrial capacity and in manpower skills. Everyone concerned must appreciate that policy is based upon balancing requirements, that each choice made will have consequences favorable and unfavorable. The plea for any single program of military or industrial strength cannot be judged alone on its individual merits, but must likewise take into account a very broad range of short-run and long-run repercussions. This is not easy, and usually the repercussions are difficult to identify, which does not in the least minimize their importance.

When this understanding has been reached, probably the most difficult part of the job is done. What remains is to create a machinery for cataloging our requirements and our facilities, and to have adequate statistical and analytical tools in Government and in business for assessing policy alternatives and implementing those selected. The intangible factors should not be neglected. A decision based upon resource accounting alone might not take into account suffi-

ciently dynamic consequences at home or important relations abroad. And certainly policies related to national security, mobilization, and defense essentiality must be coordinated at the very highest levels of Government. Every department must be working from the same premises if the actions of all are to fit into a meaningful pattern.

It seems very clear that there have been obvious conflicts in previous considerations of the problems of foreign economic policy and of national security. There have been conflicting priorities and means used for making policies effective. This is a type of difficulty which must be resolved, for too much is at stake to allow these differences. It is our view that these conflicts can be settled if a proper understanding is attained of the issues. In the watch industry which we have taken as a case study, it is clear that a narrow view of the mobilization base and the broad objectives of foreign economic policy have clashed, and this study is designed to minimize that danger in the future for both that industry and similar ones which will cause dispute as their individual situations are reviewed.

This subcommittee is convinced that a meaningful pattern very definitely must extend beyond any narrow continental defense concept of the industrial mobilization base. National security has broad international aspects both in time of peace if useful trade among nations is to stave off war, and in time of war, if our strategy is not to fight alone, but with allies to share the responsibility for our collective security. Any lingering doubts that we are all involved as a part of the human race must surely have been dispelled by Army testimony in June 1956 that thermonuclear attack on the Soviet Union could result in heavy casualties in Western Europe or the Far East from the fallout. Preserving national security in this kind of world requires the very broadest consideration of all aspects of particular policies.

In effect, as particular industries ask for special treatment in the name of national defense, we must ask ourselves these questions:

(*a*) How unique and essential is this industry to our military strength and are their skills in short supply?

(*b*) Will trade restrictions actually help the industry to keep its skills and does its civilian production aid our defense, or is it seeking a rationale for its own commercial advantage?

(*c*) What repercussions will such restrictions have in other industries; will fresh burdens be thrown on them?

(*d*) What alternative approaches to preserving the capacity of a critical industry have been sought and weighed?

(*e*) Finally, and not least, what will be the repercussions generally on our allies and on other friendly countries whose prosperity is also important to our national security?

III. Watches as a Case Study

A. Arguments for Essentiality Offered by Domestic Jeweled-Lever Watch Manufacturing Proponents

(1) *Essentiality of the American watch industry has been well established and does not need further review.* Domestic producer representatives placed in the record copies of selected previous governmental decisions which leave the impression of unanimity of opinion that the watch industry is essential to national defense because of

its production of horological devices and of precision military equipment. Constant reopening of the question is upsetting to the industry. The view was voiced that the Congress cannot establish defense essentiality criteria, and such matters should be left to the executive branch of the Government.

Subcommittee commentary.—Continued controversy surrounding watches clearly shows this is not a closed matter. We would be neglectful of our responsibilities not to seek an understanding of what is meant by defense essentiality, how it is applied, and what the consequences are of such applications. Congress cannot act intelligently on the wide range of matters delegated to it by the people unless it studies major problems as well as delegating authority to the executive branch.

Other congressional studies have taken a limited view of the problems of the watch industry in keeping with their responsibilities. At no other time has a committee brought together the economics, foreign relations, and preparedness aspects of the industry in a comprehensive study.

The preceding section of this report emphasizes that needs do change, and that constant review of mobilization base priorities is required.

(2) *The interest of the domestic producers of watches in restricting watch imports is primarily patriotic, not commercial.* The combination of defense contracts, other manufacturing, and importation of Swiss watches is sufficient to keep these domestic companies in healthy financial condition. This establishes their present concern with defense essentiality as genuinely patriotic. But the importers with their interest in increased trade are willing to sacrifice the national security. Trade should not dominate over security.

Subcommittee commentary.—We were left with the impression that both domestic manufacturers and importers have an equal concern for the welfare of the United States. Differences of views on both sides seemed compounded of sincere interest in national security which can be advanced in alternate ways, and of commercial considerations which also may be quite respectable. Trade and national security are not necessarily exclusive alternatives, and indeed the preceding section of this report establishes their vital connection.

(3) *Even with the H-bomb, a war could last many, many years.* Nearly all past wars have lasted longer than people expected they would at the time. This emphasizes the importance of the mobilization base and the watch industry as a part of that base.

Subcommittee commentary.—It is not safe to conclude that history always repeats itself. For example, never before has the survival of life on the planet been threatened by weapons of unparalleled destructiveness. Our views on the mobilization base have been presented in the preceding section of this report.

(4) *The watch industry provides a pool of critical skills for defense.* For approximately 200 years the essential characteristics and design of watches have changed very little. They have been made by skilled craftsmen, with many of the production secrets remaining something carefully guarded, to be passed on from father to son. But gradually greater reliance has been placed upon machine production, once the proper design for a particular model and its tools for close tolerance work have been attained. By progressive stages, machine production

has carried watch manufacture closer to what is popularly called automation. Some of the assembly line jobs can be learned fairly quickly by those who show aptitude for the close work entailed. Supervisory, tool adjustment, and related skilled jobs, however, may require several years to acquire, and a handful of most critical jobs in a watch factory are occupied by those with more than a decade of experience. If a new watch plant is to be successful in less than a decade, it requires under today's technology people of long experience in watch production to do the overall designing and coordinating of production for a complete watch. Watch spokesmen claim no other industry can match these microprecision abilities in mass production.

Subcommittee commentary.—There is no doubt that some of the skills of key personnel in a watch factory take years to acquire, but probably not as great a proportion of jobs are truly critical as the domestic producers imply, and job training times can be reduced, if the experience of other industries has any relevance. Most skills are presently acquired by the slow accumulation of experience rather than through carefully organized and intensive instruction by modern techniques. The experience of one watch firm in establishing a branch plant is a case in point. In any event, we recognize that a modern watch factory which takes advantage of the latest production techniques and which is energetic in research and development represents desirable production capacity both for making horological devices and for making other precision items in a national emergency. We are not convinced, however, that such factories are the sole repository of precision skills in industry.

(5) *Watches are needed in war.* We live in an age in which we are governed by time. In transportation, in all military tactical operations, and in most production processes, accurate time is of key importance to the efficient functioning both of our organizations and our machinery and vehicles. Broadly conceived, timing devices include more than wrist watches and clocks: they include a great variety of special mechanisms which rely upon horological principles. The military forces have provided estimated requirements for a variety of watches and clocks, based upon certain assumptions as to the kinds of emergencies we may face. The Commerce Department also has provided estimates on essential civilian uses for watches, such as for civil defense, nurses and doctors, and production workers in factories and mines. Clearly the efficient functioning of our economy in peace and war depends upon a large number of watches and clocks with sufficient accuracy in some uses as to insure close coordination of separate operations. This is particularly true in aviation, railroading, front-line fighting, and naval operations. The British, French, and Soviet Governments recognize the importance of watchmaking by their special efforts to expand their home industries. Furthermore, the industry must produce at a certain level to exceed the break-even point, regardless of the size of critical needs.

Subcommittee commentary.—There is no denying our increasing dependence in peace and war upon timing devices. Particularly in fixed installations, electric clocks are supplying many services formerly provided by mechanical clocks and for some purposes, electronic radiations, as in the use of loran for navigational information, can replace some previous requirements for mechanical timepieces. The Department of Defense feels that there was some overissue of watches

of a higher quality than actually required in World War II, and it now estimates sharply reduced requirements in a possible 3-year war. Foreign governments' decisions to create horological industries are compounded of several elements in addition to defense needs. How we are to fill our needs for watches is discussed later in the report.

(6) *The possibility of jamming electronic fuzes by ECM (electronic countermeasures) makes especially vital the place of the mechanical time fuze which is based upon horological principles of construction.* Proximity fuzes and radar-guided missiles both have been shown vulnerable to a variety of electronic emissions. Therefore clockwork movements for timing and missile inertial guidance are important if ammunition and missiles are to reach the intended destinations and to perform as programed.

Subcommittee commentary.—This is not disputed, but it should be noted that our relative dependence upon electronics of all kinds is growing, and we cannot afford to neglect these versatile potentialities, either. This report has emphasized the speed and variety of technological changes, and new breakthroughs at any point may alter the importance of specific products, so that our whole industrial structure must be prepared to exploit changes.

(7) *The watch industry is an important source for military end items which require precision and skill.* The microprecision skills of the watch industry have found an important place in the production of military component items which require close tolerance work on small pieces. Typical is the work on aircraft instruments, mechanical time fuzes, rear-fitting safety devices, electronic proximity fuzes, guidance components in missiles, and small gyros for a variety of other military purposes. Some watch manufacturing tools are convertible to turning out nonhorological devices, and clearly a skilled work force both on the production line and in the collection of toolmakers, tool designers, and engineers is an important asset for these other tasks, if they are called upon to turn to this work. Some watch manufacturers contend that only watch manufacturers can produce the types of military components assigned to their companies if the job is to be done with precision and speed, in large volume, and at low cost.

Subcommittee commentary.—Watch companies have made notable contributions to national defense production as have many other companies. They should be particularly well fitted to produce several types of microprecision items, particularly of a horological nature. But there is considerable evidence that other companies can produce microprecision items in quantity too, and that their contributions have been equally important to defense. The Department of Defense reported there is no fuze component which is produced exclusively by jeweled-lever watch companies, and only a small part of the total fuze program is currently programed for mobilization assignment to that segment of the industry. The research and development activities of watch companies in the military field are of growing importance and need the same encouragement given similar efforts elsewhere in the economy. It is not clear that watch production as such is making a large direct contribution to the military research; their research divisions tend to be separately organized and staffed.

(8) *It is the wage differential between Switzerland and the United States which makes it impossible for the American watch manufacturing industry to compete with imports, not any technological lag.* One United

States producer who also operates a factory in Switzerland contended that comparing production methods in his two plants, a clear commerical advantage lay with the Swiss plant because of lower wages in Switzerland.

Subcommittee commentary.—All trade is based upon a difference in costs, and absolute comparisons of efficiency are neither practical nor helpful from a national policy point of view. Our reasoning was developed in our report on foreign economic policy of January 1956. This is not to deny that the domestic watch producers do not find Swiss price competition very keen. But this is not in itself a reason for ending this trade until we have found a higher consideration than price competition, namely defense essentiality, should give reason for interfering with the private business system. Despite lower Swiss costs, American manufactured watches are able to compete in some foreign markets.

(9) *Swiss watch exports to the United States are a relatively small part of the Swiss national income, and consequently little harm would be done to that country if the United States takes measures to protect the domestic industry.* In any case, because Switzerland is determinedly neutral, we have little occasion to worry about the repercussions of our policies in Switzerland. The scare talk that higher duties on watches will hurt United States export sales to Switzerland is not based on facts.

Subcommittee commentary.—There is no doubt that Switzerland is likely to remain a neutral. It is also true that the Swiss are a democratic people, and this is a time when such values are especially important. Our only commentary on the effect of reduced imports of watches is to refer to the foreign economic policy report of this subcommittee made in January 1956. Any reduction in imports (dollar expenditures) is likely to have repercussions on exports (dollar receipts), and the burden of trade restrictions is likely to fall upon our export industries.

(10) *The Swiss watch cartel poses a threat to the American manufacturers, and hence harms an essential industry.* American producers of watches contend it is the purpose of the Swiss manufacturers to destroy all foreign production of watches to create a complete monopoly for themselves. If this is the case, and they are successful, the dependence of at least the non-Soviet world upon this tiny neutral country remote from our shores could be a very critical matter. It would take many years to reestablish a jeweled-lever watch industry based on conventional designs. During a war of limited duration it would be almost impossible. A neutral Switzerland would be under no obligation to supply us, and if it were either surrounded or overrun, that production capacity would be lost to us.

The cartel might approach its goal of market domination by several means. It might sell in this country at dumping prices below the regular level elsewhere. Alternatively, it might sell at prices related to production costs appropriately marked up at retail level, but because of the efficiency of the Swiss industry and the translation of costs, including wages, at prevailing exchange rates, they would underprice their American rivals. The cartel could of course try to maintain its prices at artificially high levels, and the Department of Justice has charged it with restrictive practices designed to accomplish this. The cartel has been charged, too, with using its organized

90005°—57 S. Rept., 84-2, vol. 5——16

ingenuity to find tax avoidance routes around the protection of the American tariff, and these will be discussed in the next subsection of this report. Finally, the cartel is charged with attempts to limit the export from Switzerland of their specialized know-how in the form of plans, machinery, engineers, and skilled workers. All of these possibilities and actualities, the domestic producers charge, represent threats to American security.

Subcommittee commentary.—There is no real evidence that the Swiss have attempted to sell in their most important market at a dumping price and consequently there has been no move to assess antidumping penalties against watch imports. If the Swiss have held their watch prices to artificially high levels, this affords an umbrella of protection to American producers with higher costs. If the Swiss are able to undersell American producers on the basis of efficiency in production, sales acumen, and price advantage brought by exchange rate translations, it is hard to see why this by itself makes the cartel harmful to this country, for these are not factors related to the cartel form of organization. Swiss cartel attempts to limit the export of technical know-how and machinery are more serious charges if the United States industry is less efficient than the Swiss and needs Swiss innovations in order to catch up.

This country does not like the cartel form of organization, but can not dictate to the Swiss in this matter. Many Americans believe that cartels tend to limit production, raise prices, and become backward in product improvement and cost savings. Considering Swiss preeminence in horology, it would be difficult to prove the general complaint in this instance.

We agree that the fate of the American watch industry should be determined by its ability to meet fair competition and by the needs of our people for specialized essential products not available elsewhere. Maneuvers of a foreign organization operating through restrictive practices should not be allowed to determine the fate of American watch production. On the other hand, no convincing evidence to substantiate charges against the Swiss of cartel interference with our defense were presented, and the attempt of domestic watch producers to make this topic the central one of the entire hearings is judged to have had little relevance to the real problems of defense essentiality.

(11) *Watch upjeweling in this country and the importing of quality watches marked "unadjusted" are two means used by importers to avoid taxes levied on imported watches for the purpose of protecting an essential American industry.* The domestic producers of watches feel that the Congress intended that watches of high jewel counts and exceptional precision be made in this country, and for that reason extra duties are imposed on watches which are "adjusted" for accuracy, and a very high duty on all watches with more than 17 jewels is assessed, irrespective of other features. Watch importers on a small scale now, but perhaps potentially on a much larger scale, convert some imported watches to a higher jewel count or add imported self-winding subassemblies to watches which are imported as 17-jewel watches in running order. The domestic producers also contend that modern watch construction methods create watches which no longer need individual adjustment, but are still the equivalent of "adjusted" watches within congressional intent, and they contend therefore that an indeterminate number of adjustment fees should be assessed against these watches upon importation.

Subcommittee commentary.—This would seem to be another matter not particularly germane to the problems of defense essentiality. It is not within the province of this subcommittee to pass on pending bills related to either of these technical matters. Only to the extent that these tax avoidance measures, if they deserve that label, threaten American security can they even be discussed.

Whether upjeweling is, as the domestic producers claim, a way around the law or, as the importers insist, the normal right of any concern to remanufacture after importation is not for us to say. It does seem as if some of the difficulties are an outgrowth of the curious 1930 decision that watches of more than 17 jewels require markedly different tariff treatment, and of the new consumer preference for high jewel counts which has been fostered by high power advertising and by the desire for special features. We found in our investigations no technical reason for drawing this arbitrary distinction.

Similar complexities surround the relation between the congressional intentions on watch adjustments expressed in 1930 and the situation today when advancing technology has made it possible to build a watch which no longer needs as much manipulation for it to keep good time under varied conditions.

If domestic watch manufacturers are convinced that their industry needs protection from foreign competition, their several attacks on importers are consistent with that objective, however diverse the reasons offered. Already they have won the withdrawal of tariff concessions through the escape-clause action of 1954, and have found the results from their point of view did not go far enough to restrict imports. If they can win a processing tax on upjeweled watches, and an indeterminate number of adjustment fees on watches which do not need the type adjustments made in 1930 but which have similar accuracy, they hope to strengthen their market position compared to their importer rivals. Since there seems no opportunity to prove that the cartel has dumped watches here, even though Swiss watches compete in price, they can be pleased to see the cartel attacked for holding up prices and for limiting foreign watchmaking activities of Swiss manufacturers even though these restrictions help much of our domestic watch industry. Now section 7 of the Trade Agreements Act of 1955 offers the opportunity to add a variety of restrictions if the Office of Defense Mobilization and the President can be convinced that national security requires these.

Certainly our watch tariff problems could be simplified if we applied an ad valorem duty on all watches, regardless of jewel count and form of construction or adjustment, perhaps setting absolute lower and upper limits to this ad valorem rate. Such a tariff would not vary so much in its protective effect with changes in price levels, and by setting at least a minimum rate, the work of customs appraisers would be greatly simplified. This would save us from controversies over the present rules, and attention could be refocused on the main issue of whether the industry does or does not need protection, and whether if required this should be done through the tariff or by other means. However, as a practical matter, this is not the time to amend the 1930 Tariff Act.

B. ARGUMENTS AGAINST ESSENTIALITY OFFERED BY IMPORTERS OF WATCHES AND THEIR SUPPORTERS

(1) *Government findings on watch requirements have been inconsistent and inadequately supported by clear-cut criteria.* The escape clause action was supposed to be based upon the faltering commercial position of the industry, but the President seems to have been influenced by the report on defense essentiality of the industry made by the Interdepartmental Committee on the Jeweled-Watch Industry of the Office of Defense Mobilization in the spring of 1954. There are good reasons for being troubled by the logic or lack of logic on the part of that committee in arriving at its decision.

The Department of Defense made a very complete study of military requirements for watches and other products of a military nature produced in part by the jeweled-lever watch companies. The Department of Defense concluded that the need for jeweled-lever watches in any future 3-year war would be nominal, and that if it were necessary, sufficient watches could be stockpiled in advance. This report was not made public until almost a year later, even though the original report was prepared in a way which would have allowed its declassification at the time.

In contrast, the Department of Commerce concluded in its study made for the Office of Defense Mobilization that annual production of at least 3 million movements was required to meet the very minimum of essential civilian needs in wartime. This, it should be remembered, does not refer to direct military requirements. The Department based its estimate on the apparent shortages and inconveniences of World War II, and then scaled upward the estimates on new requirements to match the growth of population and economic activity. It is curious that the Department of Commerce minimum has been exceeded only 2 years in our history.

The Interdepartmental Committee on the Jeweled-Watch Industry seems to have rejected much of what was concluded by the Department of Defense report, but accepted in scaled-down form the Department of Commerce estimates. The Committee finally supported the figure of 2 million movements a year.

This movements figure seems at best a very crude measure without any particular inquiry into the composition of the work force required, the number of watch designs to be produced, the number of companies to be supported, all of which would have a bearing on the preservation of critical skills. In fact, it looks like a compromise figure, roughly equal to the Department of Commerce estimate cut in half and added to the Department of Defense estimate. Now if the Department of Commerce was correct, it was wrong for the Committee to compromise on a lower figure, simply to get agreement. On the other hand, the Department of Commerce presented no evidence that its findings were anything more than a scaling up of purported watch requirements of World War II and the Korean emergency periods. There was no evidence of an analytical process to show whether the production of 3 million watches a year in war would have a deleterious effect on other essential production. If the skills of the jeweled-lever watch industry are so great, it would seem likely that as in previous emergencies, their abilities would be too important to use in manufacturing watches instead of fuzes, gyros, relays, and many other important devices.

While the details of the Department of Defense study were still kept from the public, that same spring of 1954, the new Assistant Secretary of Defense for Supply and Logistics testified that the jeweled-lever watch industry was essential. When the study was finally made public, long after the escape-clause action, it was hard to reconcile the declassified study and the public statement. despite the assurances of the Secretary of Defense that the position of the Department had not changed.

There is left a strong suspicion that the decision of the Interdepartmental Committee was dominated by domestic commercial considerations rather than either defense needs or foreign policy effects.

Subcommittee commentary.—Careful reading of the Department of Defense report on watches of 1954 and the press release of the Secretary of Defense in 1955 makes it hard to accept that the Department has not shifted its position. The report stated, "* * * no special or preferential treatment for the [jeweled-lever watch] industry is necessary." The press release of a year later stated these words meant the jeweled-lever watch industry is equally as essential as the pin-lever industry, both of which are important.

Considering that watches are likely once again to have a low priority for manufacture in light of the reserve already available in stores and private possession and the need for all precision skills in the country for making more critical military items, it would seem better for the Interdepartmental Committee to have studied that aspect of the problem more completely. Then it would be possible to explore whether watch production in peacetime is necessary to preserve a pool of skills needed in war to make devices other than watches. It would be desirable to study whether singling out the watch industry for special treatment would do more to advance the general level of precision skills available in the country than would more general efforts in research and education and training. Certainly it is important to inquire whether special treatment of the watch industry is likely to harm other critical industries in the United States.

(2) *Other producers are equally capable of performing microprecision manufacture essential to defense.* Only the jeweled-lever watch producers in this country are prepared to produce jeweled-lever watches, and it would take many years to start from scratch to manufacture conventional jeweled-lever watches if those plants did not exist. But when one reviews the uniqueness of their skills for doing close tolerance work on small items in general, the evidence is that an increasing number of other firms are also capable simply because there are increasing demands for such products both in time of peace and in time of war. The four jeweled-lever watch companies do not begin to have the space, the machinery, the production line personnel, the skilled toolmakers, or the engineers to carry the total burden of such microprecision manufacture for the Nation. Nor did they ever have in any past period capacity equal to meet needs of today's magnitude. Even if they could be so equipped, the country could not afford to concentrate strategic and vital production to that degree in a few vulnerable plants of a single industry. The Department of Defense has made clear that it does not regard the abilities of the jeweled-lever watch industry in defense production as unique, even though the industry has valuable capacity. No major military production component is made exclusively by the jeweled-lever watch industry, and only a small propor-

tion of total fuze and rear-fitting safety device orders are programed in the future for production by the jeweled-lever watch industry.

Importer spokesmen noted that although evidence was produced for the record which showed that companies other than jeweled-watch producers had production difficulties which in some instances were overcome with help from these watch companies, this was not the whole story. Once new firms mastered unfamiliar production problems, many of them did very well. There was evidence offered, too, that in some instances, the domestic watch companies have been underbid and outdone on defense work by other domestic firms, including plants operated by importers of watches who were able to do well without the benefit of simultaneous domestic production of jeweled-lever watches. Nor did the watch companies volunteer for the record any information about some of their own previous production difficulties and rejection problems while trying to master new products, even of a horological nature. A labor witness did allude to watch company difficulties in producing ships' chronometers, but there was no elaboration in the hearings. What it comes down to is that today the demands for accuracy, speed, and large volume production are very great, and the best of firms are hard pressed to meet requirements.

Also striking is the changing nature of defense needs. Not only have our methods of production moved toward automatic production within tolerances beyond the capability of the individual skilled worker to meet, but the rapid obsolescence of military equipment is presenting fresh challenges. Typical today is growth of miniaturized electronic equipment used in bombs, shells, missiles, and aircraft. In this work, many newcomers and companies outside the horological industry will have important contributions to make to microprecision manufacture. Twenty years ago, it was uncommon for microprecision work to be required outside the horological industry. By World War II, the picture had begun to change, and since that time each passing year is markedly in the direction of such skills becoming more and more widespread.

Subcommittee commentary.—During the hearings, a representative of the jeweled-lever watch industry conceded equal importance to defense for the pin-lever watch and clock industry. The pin-lever industry, according to evidence in the record, like everyone else, seems to have had its share of production triumphs and failures.

We do not want to minimize the importance of microprecision skills in manufacture required for defense purposes. Watch companies have a long tradition of experience in this field, and undoubtedly can do some operations better than their rivals. But at the same time they cannot do everything better, and can be more than matched in a number of vital fields. Emerging technology will pose very great challenges on all manufacturers, whether they are watch companies or clock companies, or outside the horological industry. Some will do well, while others will have production difficulties. Many of the existing engineering and toolmaking teams will continue to be invaluable, but newcomers will be needed, too. Some of their results, if the past is any guide, will give the established concerns a good run for their money.

(3) *There is only a limited need for more watches in war.* A labor representative at the hearings contended that fuze production was the

least important work of the jeweled-lever watch industry, that fundamentally the basis for preservation of the industry was the production of jeweled-lever watches. Obviously, accurate timepieces are essential in many military operations, and the jeweled-lever watch companies are undoubtedly the concerns best able to make such products, although the importance of pin-lever watch production should not be minimized. But the importer representatives questioned whether watches are needed in the quantities implied by domestic watch manufacturers. Granted for the moment that they are, there should be enough watches in the hands of jewelers and in the possession of the public that could be requisitioned to meet any foreseeable needs for watches even in a war lasting several years. Probably enough ships' chronometers are already in storage by the Navy to meet those needs, too. There is a further question of relative priorities. Granted that watches are important to the conduct of war and essential civilian operations, it does not follow that we can afford to manufacture them in wartime. Probably most watch company facilities would be required to fulfill higher priority needs, just as was true during World War II. Swiss production might again be available as it was in that war, because no limited war would be likely to cut off that country. The Swiss are likely to be cut off only in the kind of grand holocaust which would leave in doubt any mobilization plan.

Subcommittee commentary.—It is the ability of the jeweled watch companies to do fuze and other defense work which leads us to suspect that most of their capacity in an all-out emergency would be diverted from watch production. This ability, of course, is shared with other good firms in this country. It would seem that some of the requirements for watches in time of war have not been based on any real assessment of relative priorities as urged in an earlier section of this report. Air navigation requires high accuracy in instruments, but nurses will harm few patients if they use pin-lever watches and electric wall clocks for taking pulses and timing medication. We were impressed by some of the pin-lever watches shown at the hearings. Many of them would provide a sufficient degree of accuracy for most purposes, and are enough cheaper to manufacture that even if they wear out after a few years, their purchase price approximates the cost of cleaning a good jeweled watch, let alone purchasing the jeweled-lever one initially.

(4) *Technical changes in watches will outmode some present concepts of their essentiality.* As has been pointed out, for about two centuries, watches have been altered very little in design, except to make them smaller and thinner and more stylish. Manufacture has changed, and is changing through standardization of parts and automated production. Self-winding watches have been made in Switzerland since 1880, and one American company now makes such watches. Calendar and other special-feature watches are not new, but are of growing popularity. Improvements in pin-lever watches in this country and in Switzerland are opening up new markets of considerable size which are only partly competitive with American jeweled watch production.

Of considerable interest for the future are the potentialities for revo lutionary changes in watch design. These changes may be such that much of present watch technology will be of limited significance to the competitive position of different watch companies. Electronic firms

not now engaged in watch production may very well have the advantage in the production of new devices of this type. Already one watch company in this country has announced an electric watch, and the witness from another wore an electric watch to the hearings. Testimony from an importer at the hearings suggested the time is not far distant when electric watches may in turn be replaced by purely electronic watches bearing no relation to the present watch mechanisms except to tell time.

Such products are not yet a marketing reality, but there is little reason to doubt that in a few years they will be. When that time comes, any estimates in the watch industry on the size of facilities, and manpower pools required for defense will clearly have to be reviewed. It suggests that the defense contribution of the watch companies which is real is concerned with the production of military end items, not watches. These defense skills should be considered on their own merits, together with similar skills of nonhorological companies which may be judged worth preserving. But the traditional way of producing watches may prove in time of less importance than is true today.

Subcommittee commentary.—It is premature to judge what the specific effect on the watch industry will be of technological changes which are now under development and may come in the future. Certainly these possibilities stress again the importance of versatile and high caliber engineering and tool and diemaking talent. We must be sure that governmental policies encourage this versatility and do not freeze our capacity in processes which will become outmoded.

(5) *All industries become essential in a major war effort.* Any maximum logistic effort will require all the machinery, skill, and experience which can be converted to saving the Nation. Shortages of such talent will be general. It follows that if the defense essentiality argument is to be allowed any one industry as an excuse to interfere with legitimate peacetime trade, so too may all other industries make pleas for protection. If such grants were to become commonplace, we would retreat rapidly into expensive autarky and an unworkable isolation. The pleas of individual industries cannot be taken too seriously because they lack any common set of criteria, and view their own contributions in a parochial way.

Subcommittee commentary.—There is the danger in some quarters that because all industries are essential in war, any and all pleas for trade restrictions might be entertained uncritically. We would not go so far as to believe any part of the Government would be so naive. We need impartial criteria which may help us to find genuine differences in the degree of essentiality on which policy determinations can be made and which will protect the national interest. Every industry feels itself essential to defense because it knows that its facilities would be employed in an all-out emergency. But there must be selectivity on the part of Government in identifying the more critical, bottleneck industries for special treatment, if we are not to abandon the system of market-price allocation of resources (free enterprise) for a centrally controlled and planned society (totalitarianism). The responsibility for substituting bureaucratic judgment for market forces cannot be taken lightly, and defense considerations must be truly overriding.

(6) *A practical test of defense essentiality might be found in the willingness of the Department of Defense and the armed services to*

carry the costs of certain industries, including watches, as part of their military budgets in the form of direct subsidies. There is no reason why consumers should have to pay a high price for watches to support a so-called essential watch industry. Further, if watch industry research on guided-missile components is essential, the costs of such development work should be a part of the military budget, not obscured as part of a minimum base concept of skilled watch workers maintained through trade restrictions. We do not ask duck hunters to subsidize an ammunition program or the owners of television sets to pay the costs of the DEW line radar screen.

Subcommittee commentary.—It is quite likely that fewer military figures would come forward to volunteer that their organizations pay subsidy money for making civilian watches in order to maintain a mobilization base than now come forward with generalized endorsements of essentiality. This may not be the whole answer to the problem, as implementation might prove difficult in some respects, and more study is required. However it is paid, special treatment for an essential industry does have its cost, and if the purpose is to aid defense, it is a defense expense.

(7) *Fresh restrictions on importation of watches justified on the basis of defense essentiality may have repercussions which are overlooked or disregarded by those advocating this approach to solution of domestic watch industry problems.* Most obvious is that a reduction in the value of imports requires adjustments in the balance of payments. Swiss purchasing power is reduced, and will be evident in lower purchases either from the United States or in third countries which deprived of dollar exchange will themselves have to cut purchases from this country. To sustain the level of exports might require a heavier burden of foreign aid to offset dollar earnings lost here. It is the multilateral balance, not just Swiss trade with this country, which is affected.

Secondly, fresh trade restrictions can be followed by reprisals, and it matters little whether these are considered vindictive or merely adjustments to a new situation. There is danger of starting a new vicious circle of mounting controls which could be very damaging to the goal of strengthened economic relations with friendly countries.

Subcommittee commentary.—These points are easy to accept in principle but harder to prove statistically in particular instances because of the complexities of economic and political relations. But we would go a step further. Whether individual acts seem to be justified or not within the limits of consideration reviewing authorities have used, we sense from worldwide editorial comment, travel, and discussion, a cumulative harmful effect which cannot be measured in quantitative form by any regular review process. Our Government's actions on watches, bicycles, and procurement of generators for public power dams have been viewed apprehensively by all our friends abroad even when they were not directly affected by the decisions taken. Aid for the domestic industries concerned may be required, but if it is, a much more determined effort must be made in the future to avoid measures which can only bring comfort to unfriendly rivals.

(8) *Restrictions on imports taken to aid the domestic watch industry will not have the effects hoped for, at the same time that they make trouble for us in our foreign relations and add an unnecessary burden on other home industries and consumers.* The 1954 decision to raise the duty

on imported watches did not solve the problems of the domestic watch industry, nor is there any reason to suppose that further duty hikes or other restrictions on imports would be beneficial. Consumers will not buy expensive domestic watches which lack advanced features in sufficient quantities to sustain a growing American jeweled-watch industry. For the person who owns a quality domestic watch in good working order, and who wants to buy a new watch with self-winding or calendar or other special features, the chances are good that such a Swiss purchase is not competitive with domestic watch products. There are several consequences which follow from these import restrictions, existing and proposed. In very expensive watches the watch movement is a small part of the price anyway, and duty changes will not affect their market appreciably, or if they do, they are such a small part of the total market as not to affect the general prosperity of the domestic producers. In cheaper watches, the market would simply be lost. Many people unable or unwilling to buy an imported watch at a low price for gift purposes will buy products other than watches, or will buy services, to meet their gift needs. The choice in a gift is not always between a $20 imported watch and a $35 domestic watch, but more often between the $20 watch and a bracelet, or a short train trip, or a chemistry set. Furthermore the growth of foreign travel by Americans is becoming so great that there are a very large proportion of people able to buy directly or through a friend a watch purchased outside the United States tariff jurisdiction. Smuggling of watches is not difficult either, and a high duty gives increased incentive for tourists and transportation company personnel to bring back watches for resale in this country.

Subcommittee commentary.—Certainly past restrictions on watch imports have not increased the share of the market held by domestic watch producers, and a heavier tariff burden on the higher jewel count watches may have been a factor in the shift to the importation in larger quantities of cheaper watches causing some difficulties for domestic pin-lever watch manufacturers. This is arguable, but still is indicative of the complicated results of implementing defense essentiality measures. Both a witness from the jeweled-lever watch industry and the Department of Defense concede that pin-lever watch producers are equally essential to defense. So we note that any increase in duties has the tendency to shift a burden to other parts of the economy, parts which may not previously have needed protection. But with their position made precarious, they may be forced to ask for protection, too. If wholesale adoption of such policies were to be the rule, it would be an admission of a policy of virtually complete self-sufficiency which is not in the national interest. Therefore all changes in rates should look beyond the immediate product affected to these other industries. Whether smuggling becomes more of a problem or whether watches are brought back by tourists not only from Switzerland but even from nearby Canada and Mexico, it is probable that many Swiss watches will continue to reach the United States.

(9) *There are several alternatives to trade restrictions which would offer more long run hope for improvement of the position of the American watch manufacturing industry.* Perhaps most important would be a concerted drive to increase horological knowledge in this country. Although watch repairing is taught, there is no university which offers work in the horological sciences, in contrast to Switzerland

where numerous institutions carry on both training and research. The United States industry has been dependent upon Switzerland for many of its tools and technicians and skilled workers, as well as for jewels which are used in watch manufacture.

American actions to restrict Swiss trade in watches increases Swiss reluctance to allow the export of their machinery and technicians not only related to watches but in other advanced fields of technology and engineering as well.

There is the real danger that the American industry, if it feels it will be protected from progressive rivalry abroad, will grow complacent and have even less incentive for keeping up with the Swiss who are the acknowledged leaders in advancing watch technology. American producers might come to expect with each Swiss advance, that they could return to our Government for further protection.

Subcommittee commentary.—The watch companies are now in the process of expanding their military research activities. It might be desirable for them to make more comprehensive plans for horological research as well, if they feel that watch production is an important part of their defense contribution. Swiss cooperation could be important to this effort, and would be more likely to be forthcoming if the present feuding could be ended.

(10) *The real attack by the American producers of watches is not so much upon the Swiss as upon other American businesses.* The importers imply this when they point out that only about 15 percent of the selling price of an imported watch goes to pay for the Swiss movement. The amount paid in taxes to our Government is in excess of the price of the movement. The greater part of the price is spent for the total of delivery charges, taxes, the case, the strap, and various markups by dealers and retailers.

Subcommittee commentary.—This is a minor point, although the small place of the cost of the movement in the retail price of a watch is worth noting. In general though, whether most of the price goes to other Americans or to the Swiss is not particularly germane to the defense essentiality discussion, and should not have too much bearing on trade policy. The subcommittee's discussion of the balance of payments in its January 1956 report makes clear that dollars spent abroad tend to be as useful to the domestic economy as do dollars spent at home, and in fact, if the reason for buying abroad is based on international division of labor, our well-being under peaceful conditions is enhanced. In passing, we note the 15 percent estimate probably understates the typical Swiss share.

(11) *The real basis of Swiss competition is in the superior technology and marketing abilities of that watch industry, not low wages of Swiss workers.* Much of the American industry seems to have stagnated, and concentrated its efforts on winning new trade restrictions or putting research money into defense items rather than better watches. In contrast, the Swiss have made horology a major technical science, establishing many institutes and courses of study devoted to improvement of watches. Most of the major innovations in watch design and in watch production methods have come from the Swiss. Because their workers are among the highest paid in Europe, it is not proper to credit their price advantage to low wages. The Swiss also have tried to market products which people want. They have developed a large new market in low-priced watches which American jeweled-lever

watch companies do not seem interested in developing. They have also developed very expensive watches with advanced features that the public wants and American producers have not been willing to build into their products.

Subcommittee commentary.—Neither the domestic producer view that Swiss labor is cheap compared with ours, not the importer view that this Swiss labor is the highest paid in Europe can be taken as especially pertinent to the decision on essentiality.

More to the point of competitive relations is whether the Swiss turn out products which consumers in this country want and cannot obtain at home either at so low a price or at any price. From an economic point of view there is no reason why our people should not be allowed to buy what they want. It should be noted, of course, that neither the "escape clause" nor the "defense essentiality clause" have any reference to the consumer interest. Escape-clause actions put the interest of the producer ahead of the consumer, and defense essentiality asks the consumer to carry a part of the burden of national defense in higher prices or less desired products.

The subcommittee established its views on comparative wage rates in its January 1956 report on foreign economic policy. It recognized further that a case can be made for the escape clause, but that its use can have undesirable consequences. It is establishing its position on defense essentiality with this report.

(12) *The American jeweled-lever watch industry is prosperous despite its complaints about watch imports, and therefore is not threatened with extinction.* Most if not all of the domestic watch companies have shown a general upward trend in earnings and assets. The company which has had the most difficulties could not blame those troubles on imports, and feels it has made progress in overcoming those other difficulties now. The domestic watch companies may be having trouble meeting Swiss competition in watches simply because they are so busy diversifying their efforts and spreading top management thin over military research and various other outside activities. All of the domestic jeweled-lever watch companies are also engaged in marketing imported watches under their own labels and some sell additionally under the labels of subsidiary companies.

Subcommittee commentary.—Both the importers and the domestic producers seem to be agreed that the American companies will keep their corporate identities and be able to make money. The domestic companies claim they face serious threats from Swiss competition because their share of the market has declined. The importers tried to establish that although watch sales fluctuate, the domestic companies have not lost ground in absolute terms, and that share of the market is a test open to several interpretations, of which the domestic companies have not picked the correct one. Prosperity of watch companies of course may not guarantee their ability to do defense essential work.

C. OBSERVATIONS ABOUT WATCHES AND THE WATCH INDUSTRY

(1) The significance of jewel bearings in watches

Although the facts are not new, the hearings did develop some information about watches which are not common knowledge to the public. The importance of very high jewel counts has been exag-

gerated in the advertising of some watch producers. A finely machined watch is quite likely to have a considerable number of jeweled bearings, which help to maintain the initial performance of the watch. But beyond 15 or 17, in a conventional watch, added jewels have little significance. The remaining points at which they might be placed are not those at which great friction is encountered. And some very poor watches may also have high jewel counts so that this count is not a guaranty of quality. In fact, added jewels, particularly in small watches, may detract from their time-keeping qualities. In any case jewels cost from 2 to 5 cents each and hardly can be much of a factor in the price of a watch.

(*2*) *Relation of costs of watches to their retail pricing*

The retail pricing of watches bears little relation to the cost or the quality of the movement. Watches with identical movements and with cases and straps that cost substantially the same sell at markedly different prices. This makes it difficult to understand the precise effect on sales of a change in the tariff, unless the tariff rate is prohibitive. This suggests that some importers probably will stay in business short of a prohibitive tariff or embargo, and that the domestic industry cannot expect guaranteed sales through hikes in the tariff, prohibitive or otherwise.

(*3*) *Statistical assessments of the watch industry and imports*

There is great difficulty in drawing firm conclusions from the statistical claims of either watch importers or American watch producers as to how the market is divided between them and what the effects of various tariff changes have been.

While there is no complete statistical proof that tariff hikes have hurt Swiss sales in this country, still the test of logic would suggest that such increases in duty have cut into the profits of importers and that because the demand for watches has some elasticity, there must have been some cutback in quantity sold, other things being equal. The drop which did occur in sales after the President raised the tariff could have been related to a need to cut inventories in the recession of that year, or might have been a reaction from overordering in anticipation of the escape-clause action, but logic would suggest the longer range effect of the duty in any case would be adverse.

On the other hand, it is not any clearer from the statistics that raising the tariff in 1954 resulted in improvements in the sales of the domestic companies, although they could argue that they would have been in poorer position but for the hike. Improving business conditions in 1955 probably would have brought some boost in sales anyway. Whether it was the tariff or happenstance, the increased importation of pin-lever and Roskopf movements occurred as 17-jewel watches fell. These results again suggest that higher duties on watches for adjustments, and a processing tax for upjeweling would make no measurable contribution to the strength of the domestic jeweled-lever watch industry to aid national defense.

So long as there are several overlapping and only partially competitive markets for watches and no set of existing statistics are capable of measuring the exact components of these markets, it will be possible for the importers and the domestic producers of watches to disagree as to the state of the market, and neither group of claims can be disproven, even though they come to conflicting conclusions. The

statistical significance of comparisons on share of market are important, though, for they bear on the question of purported Swiss domination. By selecting appropriate series, it is possible to demonstrate either that the Swiss have about 85 percent of the market for jeweled watches, or that they have less than 50 percent of this market (by excluding (a) special feature watches which consumers want and domestic manufacturers are unwilling to make, and (b) cheap watches which may contain some jewels but which in fact in quality and price should be grouped with domestic pin-lever watches, and are noncompetitive with either domestic or imported quality watches).

IV. Conclusions and Recommendations

A. GENERAL

1. National security depends upon many factors, not the least of which is a community of economically healthy nations devoted to living in harmony and tied together by mutually beneficial trade.

2. Mobilization thinking must encompass the possibility of many types of wars; each class of possible emergency puts different demands upon the economy. Mobilization thinking must go far beyond outmoded ideas of continental defense to encompass our worldwide interests. Furthermore, it must be adapted to the changing effects of burgeoning technology and shifting international relations.

3. Resources are not great enough to allow for preparations to meet every eventuality; therefore, it is incumbent upon us to allocate our limited resources to meet the highest priority demands based not only on the likelihood of certain events taking place, but also on the seriousness of these events. This suggests different degrees of essentiality for industries in accordance with the priority of their roles.

4. It is safest to assume that never again will we have time to convert our industry over a period of years from a peaceful orientation to a military one; friendly forces in being and supplies ready for use where they will be needed throughout the world should dominate our readiness planning.

5. Thermonuclear war would destroy civilization and possibly mankind everywhere. It must be avoided; but until acceptable controls are available, our primary economic defense effort must include (*a*) immediate readiness to fight such a war as a deterrent to its ever being needed, (*b*) survival measures of shelters, food, medical supplies, microfilmed libraries, self-contained power sources, and other steps to save human life and civilization if such a war should come despite our best efforts to avoid it, (*c*) worldwide containment measures, both economic and military, positive as well as negative, to minimize the loss of our strength through attrition by totalitarian forces which ultimately might encourage resort to a total war of annihilation against us.

6. Wars short of thermonuclear annihilation can best be prepared for and prevented by keeping strong striking forces of naval and airborne units capable of reaching the scene of any peripheral outbreak soon enough to bring it under control before the conflict spreads into general war. Economic support of this effort implies current production and stockpiling of material needed rather than massive conversion of industry; it also implies allies and available overseas bases.

7. If our major effort includes a building of economic as well as military containment measures, the need for using weapons may not arise on any large scale; but such an economic effort implies closer trade relations with other countries free of mutual suspicions of attempts to export depressions or to insulate noncompetitive industries from progressive rivals.

8. The economic strength of our Nation both for peace and war requires continued capital investment in modern plants drawing increasingly upon the new techniques of automation, and backed up by substantial work in basic sciences plus applied research and development.

9. Even more critical is the need for a continuing and growing supply of skilled manpower capable of meeting these new requirements. Wise manpower policies must raise the basic level of skills by proper long-term methods with a minimum use of short-term makeshift solutions which in the future will prove the more costly. We must see that those able to master these skills receive their basic training in proper schools with the best of instructors, providing both a good grounding in key subjects and also a breadth of understanding in and beyond their fields of specialization. This is because adaptable engineering and toolmaking talent now counts for more than slowly acquired production-line skills.

10. National economic and industrial policy must include a system for judging relative degrees of priority and essentiality in those fields where public decisions dominate resource allocation. In the private economy, we rely upon the price mechanism to make these choices as a reflection of consumer interests. In military affairs, pricing devices encourage efficiency but do not answer directly the major strategic questions which require conscious judgment.

11. Freezing neither industrial capacity nor skilled manpower in set patterns is a wise approach to insuring national security even in the narrow sense of continental defense in an age of accelerated technological change.

12. In the very limited number of cases where the balanced assessment of all factors reveals a few industries need special treatment in the name of defense and if these are industries whose manipulation would have international repercussions, the alternative means to aid these industries should be weighed carefully in each individual case.

(*a*) Tariff increases, direct and indirect, should be eschewed for the burden they throw on other industries, on consumers, and on foreign trade essential to our system of world alliances, and for the reduced incentive to the domestic industry to increase its efficiency or improve its products.

(*b*) Quotas have the same disadvantages as tariffs plus the additional difficulties of rigidity in application and favoritism in assigning shares.

(*c*) Subsidies have many of the same effects as tariffs but are likely to throw a smaller burden on consumers and to require budget controls to provide for an annual review of their costs. This latter feature is a useful one.

(*d*) Stockpiling of durable items not subject to obsolescence but difficult to manufacture or to import in time of war represents a solution to some situations. But just as the tariff should not be used to hide a military cost, neither should military stockpiling hide a depressed industry relief cost.

(*e*) Standby facilities have a limited role: existing facilities which cannot be put to current alternate use might be preserved if there is some prospect of their being needed in an emergency; but in industries which depend mostly on a high level of active skills, standby is not a helpful solution.

(*f*) Expanded research and development is something which should be undertaken without regard to temporary shifts in the cold war; only a sustained effort over many years can reap the full benefits of such an approach.

13. Since our involvement in World War II, this country has been committed to a policy of participation in world affairs as the only possible one for a great power in an age of interdependence and of rapid communication over all distances. This requires a foreign policy which frankly and consistently recognizes these realities, and which builds national security not on an outmoded and unworkable continental defense, but rather works actively to prevent war and unrest anywhere in the world, and if war comes works to keep it as far from our shores as possible. This requires our consistent application of principles designed to encourage economic growth and progress throughout all the like-minded nations of the world; whereas a timorous and inconsistent policy with principle sacrificed to temporary expediency will weaken true national security.

14. It is both encouraging and ominous that the Office of Defense Mobilization has announced that the mobilization base is stronger than at any time in our past and that studies for fighting a war which will not touch our shores are virtually complete, but that study of the effects of attack on this country is still in an early stage. This can be paraphrased to mean that we are in better shape to fight the last war than ever before, and this is a charge which has been made against governments and military leaders many times in the past. That such studies have been completed on one kind of war is commendable, but we are disturbed that defense preparations still lag for other classes of emergencies.

15. If the Office of Defense Mobilization were capable of assessing all mobilization requirements speedily and accurately, there would be no necessity for industries to make individual applications to that agency for relief under section 7 of the Trade Agreements Act of 1955, for the ODM already has the authority under that same section to recommend to the President restrictions to meet these needs spontaneously. However, there is something to be said for maintaining an avenue for redress and petition where it is suspected that mobilization decisions are not being made in accordance with recognizable, uniform criteria by the Office of Defense Mobilization and its interdepartmental committees. There is, on the other hand, the real danger that once the way is shown, trade restrictions in the name of defense will really be manifestations of commercial advantage made sacrosanct against criticisms by the aura of patriotic need, even though the real effect is to weaken national security.

B. WATCHES

1. Watches can be made best by firms experienced in their production, and horological devices are widely used in military operations, but finding the best role for watch manufacturing companies and pro-

viding timing devices for the military services do not necessarily bring us to recommending restrictions on importation of watches. Importation can stimulate the ingenuity and efficiency of the watch industry.

2. Watches are not likely to be produced in this country in any war in which Switzerland is cut off from us. Under such circumstances it is likely then that factories in both countries would be destroyed; or, if they were not, certainly our plants would have higher priority assignments to fulfill than the production of watches.

3. Failure to produce watches in wartime is unlikely to cripple us because watch requirements of the military forces even in a 3-year war have been markedly reduced below World War II standards, and essential civilian requirements, even if they are as high as the Department of Commerce claims, could be met by importation from Switzerland or alternatively by requisition from private citizens.

4. Although the concerns that make jeweled-lever watches have almost a unique ability to manufacture quality watches in a short period of time, their greatest contribution is to the general pool of managerial, engineering, and production-line skills in the manufacture of micro-precision military end products; this skill is valuable, but it is not unique, for an increasing number of other concerns are showing an ability to work to equally close or closer tolerances, and to develop complex weapons systems employing such components.

5. Protection of the watch industry by trade restrictions in the name of defense is unwarranted because first, it will not be effective in preserving the domestic industry, and second, it represents an undue burden on other industries as well as consumers. The burden on other industries and on the trade of the free world will detract from national security.

6. Attempts to restrict watch imports whether it is done directly by raising duties or indirectly by reinterpreting upjeweling and adjustment rules and by attacking the cartel are likely to have undesirable side effects on our worldwide trade relations and hence on national security far beyond any narrow gain in domestic watch production.

7. Judgments of American interest in the Swiss watch cartel should be in terms of whether it provides our consumers with products at lower prices and of better quality than would home or other foreign producers; we have no valid reason for dictating the form of internal business organizations in a foreign country.

8. Undue emphasis in advertising and in legislation on high watch jewel counts ignores the nominal cost of jewels and small additional benefit if any which jewels in excess of 17 confer to the maintenance of accuracy of a watch; the consequence is complication and controversy in the administration and enforcement of trade rules as well as misleading the public.

9. The 1954 decisions on watches by the Department of Commerce, the Interdepartmental Committee of the Office of Defense Mobilization, and of the President were not accompanied by completely developed analysis of defense essentiality. The industry appears to have been studied in isolation from other industries and any set of recognizable criteria. We urge that new decisions taken this year be supported in the public record with a full analysis of why the decision is taken, regardless of whether that decision is to call for more or less restriction of the watch imports.

90005°—57 S. Rept., 84–2, vol. 5——17

10. We do not believe it is correct to emphasize the present figure of 4,000 workers engaged in producing jeweled watches as the measure of essential skills which are being preserved. In the first place, this reveals no fixed percentage of the critical skills requiring long training within the industry; and secondly, it ignores all the thousands of workers employed by watch companies who are doing defense work today. These latter workers are more obviously contributing to defense and maintaining defense skills than those concerned primarily with routine work on conventional watches for the commercial luxury trade. Our goal should be to expand skills, not to restrict trade, for the latter, negative policy will not contribute positively to American strength or world security essential to us.

11. Two-thirds of the large requirement for jewel bearings is occasioned by the number needed to manufacture 2 million watch movements a year. If the watch-movement figure can be questioned as a wartime necessity, then too, the need for jewel bearings may be grossly exaggerated.

Additional comment by Senator Flanders:

> On the whole I conceive the preceding paragraphs to express reasonable conclusions drawn from the testimony. There are, however, additional conclusions which could only have been reached by the visits made to actual watchmaking plants. Of these, the most pertinent seems to me to be the unique skills of the mechanics and technicians on whom the watch industry depends.
>
> In no other industry are to be found mechanics who can build machinery of such small size and precision as is required for the making of watch parts. In no other industry can be found toolmakers who can produce the microscopic cutters, taps, etc., that are fitted into these machines.
>
> The essentiality of such skills will, I believe, become more evident as the months go by. The replacement of the big vacuum tubes by the little transistors, the replacement of large electrical relays by the tiny cartridge type, are leading to more and more compactness in the control mechanisms which are entering into so many phases of defense work. The watchmaking industry is our nursery for these skills. From this standpoint, I conceive it to be an industry essential to the full development of defense equipment.
>
> For many years past I have been disturbed about the lack of enterprise in an industry which 50 years ago led the world in the commercial production of accurate timepieces. In the last 50 years, however, by lack of enterprise it has surrendered this leadership. In my judgment its essentiality alone entitles it to consideration.
>
> While there are general considerations applying to essentiality, yet the case of each product and of each industry must still be considered on its own merits.

Additional comment by Representative Talle:

> I feel constrained to comment on a few aspects of the report.
>
> It is somewhat difficult to comprehend the timorous and despairing conclusion reached by the report in its considera-

tion of the mobilization base. The report states that it is difficult to accept the conclusion that an attack on this country would be followed by a "phase two," in which traditional mobilization base planning would have a role, i. e., we would be rebuilding our economy and our forces to carry on the war with the enemy. The entire approach of the report seems to be that we should do everything to deter or prevent a war. But, if such war should come and if we should be attacked, we should forget what we are fighting for and against whom we are fighting. This is so, the report continues, because if we were attacked we would have to devote all our efforts to try to save some small part of human civilization for those who survive. Presumably those who survive would surrender unconditionally to the enemy.

I would like to point out that when Dr. Flemming testified before this subcommittee he did not in any way disagree with the subcommittee's conclusion that our first efforts after an attack would be devoted to survival efforts. He stated:

"Under such circumstances we must be prepared, during the period immediately following the attack, to provide the resources which would be essential for survival and rehabilitation."

However, at that point, he did not throw in the towel and recommend that we reconcile ourselves to defeat. On the contrary, he continued: "and then, during the second phase, we must be prepared to resume our production of military end items."

Referring to these two "phases" he stated:

"These will not be sharply defined phases.

"(1) For example, during the first phase we should be in a position where, for whatever period of time that phase may last, we can complete the production of at least a few essential military end items—items that might represent the difference between success and failure in that first phase.

"(2) And certainly, whenever the second phase starts, we will still be engaged in survival and rehabilitation activities.

"(3) Nevertheless, primary emphasis during the first phase must of necessity be placed on survival and rehabilitation.

"Each of these phases would require both facilities, equipment, materials, and services in being and the capacity to produce more of them."

In other words, we must have a mobilization base for survival and rehabilitation activities and for the second phase of a war. It is not "either or"—it is "both and." Any other approach is essentially defeatist.

As the subcommittee well knows, the Office of Defense Mobilization acts in cooperation with interdepartmental committees both at the staff and policy levels. All the resources of the Government are put to work in producing data on which judgments are based. Surely it must be apparent that the conclusions of the Office of Defense Mobilization should be given very careful consideration.

I am also pleased to point out that the record shows that the Office of Defense Mobilization has not only concluded

that there will be a second phase, but that also it has undertaken several programs to solve problems associated with it which in its words are "incredibly more complicated and less subject to accurate prediction."

I would like to state that in my opinion it would be extremely harmful for and detrimental to the defense of this country if our mobilization base planning were to be predicated on the watered-down concept described in the subcommittee report.

In its conclusion No. 14, the subcommittee states that it is both encouraging and ominous that the Office of Defense Mobilization has announced that the mobilization base is stronger than at any time in our past and that studies for fighting a war which will not touch our shores are virtually complete, but that study of the effects of attack on this country is still in an early stage. It concludes that it is disturbed that these latter defense preparations still lag.

The Office of Defense Mobilization is to be highly commended for the extensive program of expansion and stockpiling which has been undertaken during the past few years under its direction. That our mobilization base is stronger than at any time in our past should be a matter of reassurance to all of us.

Considering the tremendous day-to-day changes which have taken place in the development of nuclear weapons and the relatively short time in which it has been possible to plan and prepare for attacks of this type on this country, the progress and advances in mobilization planning which have been made in this area have been notable.

To test the adequacy of peacetime planning for mobilization, and to provide a training program for the executive reserve, the ODM has been developing mobilization readiness exercises or war games.

In June 1954 an initial test was conducted in connection with the Federal Civil Defense Administration's nationwide Operation Alert 1954. The second test was conducted in November 1954. It was designed as a command post exercise where some 25 to 30 key mobilization agencies tested relocation and communications facilities for 6 hours.

During Operation Alert 1955, the third in this series of exercises was held. Spanning a 3-day period, June 15–17, Operation Alert 1955 was conducted with considerable success. Several thousand key officials and employees relocated during the test.

In April 1956 it conducted a test of a readiness plan, involving mobilization without an attack on this country. This test was conducted in cooperation with all the departments and agencies of the Government primarily concerned and provided a firm basis whereby the agencies can continue to review their programs in the light of common assumptions.

Operation Alert 1956, scheduled to begin July 20, 1956, will be a continuation of this program on a more extensive scale to test our most advanced plans in this area.

In those parts of the report dealing with the case study on the watch industry the subcommittee has reached several

conclusions the firmness of which is entirely inconsistent with its own admonitions as to how the relative merits of domestic defense essentiality and foreign trade should be weighed. The report states flatly that trade restrictions on watches in the name of defense are unwarranted and that such restrictions damage national security by hindering our foreign trade and imposing burdens on other domestic industries. In the light of the subcommittee's own advice that mobilization needs and defense essentiality must necessarily be subjects of constant review and that the effects of imports on both foreign trade and the mobilization base must be currently weighed by the high level officials responsible for the conduct of those programs, the decisiveness and simplicity with which we settle the complicated watch question are likely to raise some questions about the soundness of our overall recommendations.

It appears that the 1954 opinion of the ODM's Advisory Committee on the Watch Industry with respect to the necessity for preserving manpower skills was reached, after careful study and consideration of the various national objectives involved, by high level officials of the Departments of State, Defense, Treasury, Commerce, and Labor and the Office of Defense Mobilization—the kind of forum that we have recommended for such purposes. No evidence received by the subcommittee from representatives of these agencies has indicated any change in that finding. Our only Government witness, Mr. Flemming of the Office of Defense Mobilization, was not queried on the past activities of the executive branch on this point. For this subcommittee, without receiving testimony from those agencies, to reach a flat conclusion that that finding was then and is now in error puts this subcommittee in a questionable position.

ODM's Advisory Committee on the Watch Industry is a continuing body charged with the responsibility for current reviews of the effect of imports on the industry from the viewpoint of national defense. Such a review is now in progress so that before long we should have for our consideration the latest facts and defense findings on this complicated subject. The representation on that committee would seem to insure that the results of that study will represent a careful assessment of the various national security considerations for which the departments of the executive branch are responsible. Under these circumstances I believe it is extremely unwise, both from the viewpoint of our own interests and those of the public, to include in our report determinations as to the defense essentiality of the watch industry.

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84TH CONGRESS
2d Session

SENATE

REPT. 2629
PART 2

DEFENSE ESSENTIALITY AND FOREIGN ECONOMIC POLICY

CASE STUDY: WATCH INDUSTRY AND PRECISION SKILLS

ADDITIONAL VIEWS OF SENATOR GOLDWATER AND REPRESENTATIVES WOLCOTT AND CURTIS

OF THE

JOINT ECONOMIC COMMITTEE
CONGRESS OF THE UNITED STATES

JULY 25 (legislative day, JULY 16), 1956.—Ordered to be printed

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84TH CONGRESS, 2d Session — SENATE — REPT. 2629, Part 2

DEFENSE ESSENTIALITY AND FOREIGN ECONOMIC POLICY

CASE STUDY: WATCH INDUSTRY AND PRECISION SKILLS

JULY 25 (legislative day, JULY 16), 1956.—Ordered to be printed

Mr. GOLDWATER, from the Joint Economic Committee, submitted the following

ADDITIONAL VIEWS OF SENATOR GOLDWATER AND REPRESENTATIVES WOLCOTT AND CURTIS

It should first be emphasized that part 1 of this report is not a report of the full Joint Economic Committee. Instead, as is indicated on page 1, it is a report of a subcommittee, with additional comments, which was simply approved *for transmission* to the Congress by the full committee. It is specifically understood that approval for transmittal is not to be construed as adoption of the subcommittee's report by the full committee.

Certain of the conclusions and recommendations in the report are subject to the following criticism:

1. They go beyond the study of the subcommittee.
2. They are contrary to the arguments and observations contained in the body of the report.
3. They are inconsistent with each other.

On other conclusions and recommendations, though within the scope of the study and having a basis set forth in the report, in our judgment, the better logic points to different conclusions.

With this preamble the following observations are made:

1. *Comment.*—It is agreed that "a community of economically healthy nations devoted to living in harmony and tied by mutually beneficial trade" is "not the least factor of our national security." But in light of the subject matter of the report, it should be affirmatively stated, *and it is not,* that the greatest factor of national security depends upon the economic health of the United States.

2. *Comment.*—It is axiomatic that mobilization thinking must go far beyond *outmoded* ideas of continental defense, but how far must mobilization thinking go beyond up-to-date ideas of continental defense?

4. *Comment.*—The entire testimony about the possible types of future wars which the subcommittee itself found in its studies contradicts conclusion No. 4. The real conclusion is that it is not safe to make *any* firm assumption as to which type of war we might have to fight. Certainly, it is highly probable that we will fight a war where there will be time to convert our industry from war to peace. The time lag probably will have to be improved over the "period of years," the subcommittee assumes.

5. *Comment.*—The subcommittee made no study which justifies such a statement that "Thermonuclear war would destroy civilization and mankind everywhere." Certainly there is a school of thought which advances this idea, but there are many other schools of thought which take sharp issue with this bit of human conceit.

6. *Comment.*—It is hard to understand how the conclusion is reached that "economic support of this effort implies current production and stockpiling of material needed rather than massive conversion of industry." Of course, through the use of the adjective "massive," the statement is not so easily refutable. However, the very burden of the study is the question of how much industrial conversion might be feasibly planned for the various types of potential wars. The use of the adjective "massive" in a positive statement on another matter takes away the very point at issue and under discussion.

12. *Comment.*—This subcommittee made no study of tariffs versus other methods of trade regulation and is hardly in a position to comment upon the feasibility of one method of regulating trade over another without such a study.

13. *Comment.*—Just what does the term "like-minded nations" refer to? Like-minded on judgments of economic-political philosophy?

WATCHES

2. *Comment.*—This is directly contrary to what evidence the subcommittee adduced about possible wars in the future. One of the most likely of all wars is nonthermonuclear where Russian moves over the face of Western Europe with its land armies. Such a movement would amount to a war in which Switzerland is cut off from us and our own factories would still be intact. The decision as to whether a peripheral war is to become thermonuclear is largely one that the United States will make. In Korea, we decided against it. In Indochina, we decided against it. In the taking over of Czechoslovakia, not only did we decide against it, we decided to do nothing. In Greece we decided against it. Now on what basis does the subcommittee make such an assumption in recommendation 2 on watches?

3. *Comment.*—If conclusion 2 is unsupported, conclusion 3 falls also.

5. *Comment.*—It is hard to understand the data from whence it is concluded that trade restrictions will not preserve the domestic industry. The entire reason for the position of the Swiss importers is that they want the business; the position of the domestic producer is that they want the business. The trade restriction as presently drawn gives the business to the domestic producer. It isn't a question of "preservation" as such as much as it is a question of "growth" with the growing economy.

The argument that trade restriction is a burden on other industries and consumers can be applied to any restriction on anything. The

question at hand is, Is the thing restricted against sufficiently detrimental to the part that it in effect is detrimental to the whole?

7. *Comment.*—This conception is amoral and inconsistent with the previous conclusions of the committee. In conclusion 13, the subcommittee argues for the need of the United States to stay committed to "a policy of intervention in world affairs." "This requires our consistent application of principles designed to encourage economic growth and progress throughout all like-minded nations of the world; a timorous and inconsistent policy with principle sacrificed to temporary expedience will weaken true national security," the subcommittee states.

The United States has antitrust laws to restrict against trusts, cartels, and many other attempts of persons to gain monopolistic control over economic powers. We do that in the firm belief that not to do so will discourage economic growth and progress. Now either we believe this is true or we do not. Either we believe that minimum-wage laws and laws against sweatshops do encourage economic growth and progress and that permitting the opposite will discourage it, or we do not. We either believe that our health regulations that we impose on our domestic producers are in the interest of the health of our consumers and of our society or we do not.

This doctrine advanced by the subcommittee in this recommendation that "we have no valid reason for dictating the form of internal business organization in a foreign country" can only come logically from a belief that these restrictions we place on our own domestic producers are just window dressing, voter appeal stuff, matters that have no relation to reality. Certainly if the members of the subcommittee and the staff who prepared this report believed in the economic merit of antitrust laws, minimum-wage laws, health laws, and all the other restriction we place upon our domestic manufacturers, they would see that the only way we can help spread economic growth and progress in foreign countries is through an insistence upon paying attention to these standards.

Nor do we have to go as far as the subcommittee does in its recommendation 13 in the extent of United States intervention abroad in this matter. The subject matter at hand concerns a question of foreign countries wanting to sell their goods in the United States domestic market. We surely have the right to impose a little "intervention" here to say to the foreign producer, we have certain economic regulations imposed upon our domestic manufacturer which we feel are necessary to maintain this great domestic market we have built and to protect our consumers and we expect you to pay some attention to them too if you want to gain the benefits of trading in it.

In essence, the presentation of the subcommittee is the same argument that used to be used domestically in favor of sweatshops: the consumer gets the benefit in price. Well, we have concluded in this country that, though the consumer may get an immediate benefit in price from sweatshop labor, in the long run neither the consumer nor any one else derives benefit from exploitation of other men's labors.

For over 10 years now we have been following the mixed-up philosophy, the same that is herein advanced by the subcommittee in its recommendations and conclusions, in our foreign policy. It has not done well in stemming communism in the world either ideologically in

the hearts of men or physically in the broad lands of the world. The reasons why this foreign policy has not succeeded should be obvious by now. We have not been promoting the political and economic philosophy which made this country what it is, the philosophy of high wages, good working conditions, fair trade practices, rules against economic monopoly (including the worst kind of economic monopoly, that controlled by the political government). Those who have been charged with setting up and administering our foreign policy, from their actions, seem to have no concept of what the virtues of private enterprise are. They have taken this great society in the United States for granted and then have gone abroad and condoned and indeed encouraged the very economic practices which we had to fight against over a period of many years in this country in order to have the system that we do have.

If we are indeed to promote economic growth and progress abroad, we had better start paying attention to the things that produced the economic growth and progress in this Nation. The laws of economics and sociology are just as true abroad as they are at home.

BARRY GOLDWATER.
JESSE P. WOLCOTT.
THOMAS B. CURTIS.

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Calendar No. 2675

84TH CONGRESS, 2d Session | SENATE | REPORT No. 2630

SHELLFISH RESEARCH LABORATORY IN THE CHESAPEAKE BAY AREA

JULY 18 (legislative day, JULY 16), 1956.—Ordered to be printed

Mr. BUTLER, from the Committee on Interstate and Foreign Commerce, submitted the following

REPORT

[To accompany S. 3827]

The Committee on Interstate and Foreign Commerce, to whom was referred the bill (S. 3827) to authorize the construction of a shellfish research laboratory and experiment station in the Chesapeake Bay area, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

The bill authorizes the Secretary of the Interior to provide for building and equipping a shellfish research laboratory and experiment station in the Chesapeake Bay area. It has the favorable endorsement of the shellfish industries throughout the bay area.

The estimated cost is $250,000. This includes the main building and laboratory space, service buildings, wharf and experimental ponds for clams and oysters. Maintenance and research costs and operating expenses together are estimated at $80,000 annually.

An amendment has been made to the bill as introduced to provide that the laboratory should be constructed on lands to be donated or made available without cost to the United States.

There are no changes in existing law.

Calendar No. 2676

84TH CONGRESS, 2d Session | SENATE | REPORT No. 2631

AUTHORIZING THE CONVEYANCE OF CERTAIN PUBLIC LANDS IN THE STATE OF NEVADA TO THE COLORADO RIVER COMMISSION OF NEVADA, ACTING FOR THE STATE OF NEVADA

JULY 18 (legislative day, JULY 16), 1956.—Ordered to be printed

Mr. BIBLE, from the Committee on Interior and Insular Affairs, submitted the following

REPORT

[To accompany S. 4012]

The Committee on Interior and Insular Affairs, to whom was referred the bill (S. 4012) to direct the Secretary of the Interior to convey certain public lands in the State of Nevada to the Colorado River Commission of Nevada, acting for the State of Nevada, having considered the same, report favorably thereon with amendments and recommend that the bill, as amended, do pass.

The amendments are as follows:

Page 1, line 6, change "ten" to "five".

Page 1, line 10, after the word "patent" insert "or patents".

Page 3, line 11, change "ten" to "five".

Page 3, line 14, strike out the words "pro rata".

Page 3, line 16, after the word "conveyance" insert "or conveyances".

Page 3, add the following new section:

SEC. 4. If the State of Nevada purchases under this Act any lands which are subject to a lease, permit, license or contract issued under the Mineral Lands Leasing Act of February 25, 1920 (41 Stat. 437), as amended (30 U. S. C. sec. 181 et seq), it shall be required to purchase all the lands subject to that lease, permit, license or contract which are included within the boundaries of the lands described in Section 1. The purchase of lands subject to a lease, permit. license or contract shall neither affect the validity nor modify the terms of the lease, permit, license or contract in any way, or affect any rights thereunder, except that the State shall assume the position of the United States thereunder, including any right to rentals, royalties, and other payments

accruing on or after the date on which the purchase by the State becomes effective, and any right to modify terms or conditions of such leases, permits, licenses or contracts.

EXPLANATION OF THE BILL

This bill will allow the Colorado River Commission of Nevada, acting for and in behalf of the State of Nevada, to purchase from the Federal Government approximately 126,775 acres of land. This acreage lies in a contiguous body in Eldorado Valley, an area in southern Nevada some 25 miles southeast of Las Vegas. The purpose of such purchase would be to make the area available for large industrial development.

S. 4012 provides that the purchase price of the lands will be equal to the fair market value as determined by the Secretary of the Interior upon appraisal. The State is given an option over a 5-year period to purchase the land in segments of not less than 10,000 acres.

The Federal Government now owns some 60 million acres of land in the State of Nevada which comprises 87.5 percent of the total area of the State. The amount of land comprehended in S. 4012 amounts to only 0.002 percent of the land under Federal ownership in Nevada.

ELDORADO VALLEY

Heretofore, the valley within which this land is located has been known as Dry Lake Valley. There are several areas in the State known by that title and to avoid conflicts, the area is known locally as Eldorado Valley. This area is separated from the Las Vegas Valley by a low range of hills and is a few miles south of Boulder City.

The area to be purchased under the provisions of the bill is, at present, desert land. Attempts have been made in past years to develop ground water but with no success. Two dry wells, over 900 feet in depth, were recently drilled within the valley.

Two large trunklines which transmit natural gas from the Texas fields to the southern Nevada region run through the center of the valley. The Hoover Dam branch of the Union Pacific Railroad, which connects with the main line in Las Vegas, passes through the northern edge of Eldorado Valley and United States Highway 95 runs through the center of the area. Several large powerlines from Hoover Dam to the southern California regions also pass through the area.

Studies made by various State, Federal, and independent agencies indicate that the Eldorado Valley area is ideally located and suited for industrial and community development. Two major factors considered in such a determination were (1) the accessibility and availability of water from Lake Mead and (2) the suitability of soil conditions to sustain irrigation, small tract and urban and suburban development. Other advantageous factors include easy access to all means of transportation, exceptional climatic conditions and excellent recreational facilities and, of course, easy access to Lake Mead and Lake Mohave.

PROPOSED DEVELOPMENT PROGRAM

The mechanics of the State of Nevada's development plans have not as yet been fully perfected. The tentative program, however, would provide for the sale of the land in large blocks by the State to industrial concerns at a price per acre based on the initial cost of the land to the State, plus a proportionate share in preliminary development expenditures which would include site planning, engineering fees and expenses and the installation of pumps and pipeline to transmit water from nearby Lake Mead.

Water from Lake Mead would have to be lifted about 1,200 feet and conveyed through some 6 miles of pipeline to the northerly end of the area. The cost of the work necessary to convey water to the valley would depend on the capacity of the installations but, as a minimum, would approximate $6 million.

The actual cost of putting water into the valley would be about $50 an acre-foot, or about 15 cents per thousand gallons. This cost, while too high for irrigation purposes at the outset, would not be too costly for domestic, industrial, or for irrigation of small homesite tracts.

Recently, the Bureau of Reclamation and the Soil Conservation Service made a cooperative land capability survey of this valley. The survey indicated 19,000 acres of arable lands suitable for agricultural purposes. In addition, the survey found 40,000 acres of land suitable for small homesite tracts and suburban development.

COMMITTEE RECOMMENDATIONS

The committee is advised that the lands affected by this measure are completely undeveloped and that there is small likelihood of development in the foreseeable future under the public land laws. The Department of the Interior indicates that "there is no Federal need for the lands" nor any "public values which need to be protected other than those which would be protected by the terms of the bill."

We agree with the sponsors of the bill that the development program envisioned by the State of Nevada is a desirable means of improving the balance and stability of the State's economy, as well as contributing to the economic growth of the area.

AMENDMENTS

The Department of the Interior, in its report on this measure, has suggested the adoption of certain amendments to the bill. The Department's explanation of the desirability of the amendments is contained in the report which is set forth in its entirety below. The committee has adopted all of these proposed amendments with one exception.

It is the committee's feeling that these lands, once obtained by the State of Nevada, would not be as attractive to prospective industrial purchasers if the lands were encumbered by numerous reservations held by the United States. The bill protects all rights in the land held by the Federal Government and private individuals at the time of acquisition of the land by the State. It was the Department's contention that the protection of reservations in the bill should also apply to future reservations that the Federal Government might desire to

make, especially for the purpose of routing future transmission lines through the area. Witnesses from the Bureau of Reclamation testified that there are no present plans, nor proposed plans, for the construction of transmission lines through Eldorado Valley. On the basis of that testimony and consistent with its desire to convey land to the state that will be as attractive as possible to prospective purchasers, the committee has rejected the Department's request that provision be made in the bill to establish protection for possible future Federal reservations in the land to be conveyed to the state.

The bill as introduced provided for a 10-year period within which the State of Nevada could exercise its option to acquire this land. The committee is not confident that any such development program as is contemplated by the State can be accomplished in less time; we have acceded to the Department's request that the bill authorize a 5-year period with the clear understanding that our acceptance of such language in no way inhibits the Congress from extending the period in which the option can be exercised if the State is unable after 5 years to fully carry out its development program.

The committee strongly recommends the enactment of the bill.

DEPARTMENT OF THE INTERIOR,
OFFICE OF THE SECRETARY,
Washington, D. C., July 16, 1956.

Hon. JAMES E. MURRAY,
Chairman, Committee on Interior and Insular Affairs,
United States Senate, Washington, D. C.

MY DEAR SENATOR MURRAY: This is in reply to your request for the views of this Department on S. 4012, a bill to direct the Secretary of the Interior to convey certain public lands in the State of Nevada to the Colorado River Commission of Nevada, acting for the State of Nevada.

We would not object to the enactment of S. 4012 if amended as suggested below.

S. 4012 would direct the Secretary of the Interior to issue to the Colorado River Commission of Nevada, acting for and on behalf of the State of Nevada, a patent to some 126,775 acres of public lands in Nevada. The patent would be issued upon the payment by the State, not more than 10 years after the Secretary has notified it of the purchase price, of an amount equal to the fair market value of the lands to be conveyed as determined by the Secretary. The Commission could obtain a portion of the land upon the payment of an amount equal to the pro rata appraised value, but no purchase could be of less than 10,000 acres. Valid existing claims against the lands would be protected, and the conveyance would be subject to any reservations necessary to protect continuing uses of the lands by the United States.

We understand that the State of Nevada desires to acquire the lands in question in order to develop their potential economic values (including agricultural, industrial, residential, and commercial values). At present very little use is made of the area. It is arid and requires the provision of water supplies for development. Some effort has been made at private development of underground water supplies

under the act of October 22, 1919 (41 Stat. 293), as amended (43 U. S. C. 351–360). In this connection, 2 wells were drilled to a depth in excess of 1,000 feet without success, and it appears that the efforts under that act are doomed to complete failure. One active gravel operation exists in the area. Except for 4 small tracts amounting to 20 acres, the area described in the bill is a solid block of Federal land. The lands are thus undeveloped with little likelihood of development in the near future under the public land laws. We know of no Federal need for the lands nor of any public values which need to be protected other than those which would be protected by the terms of the bill.

The Bureau of Land Management of this Department which administers the lands to be conveyed under S. 4012 has reported as follows:

"Our records show the following:

"1. Allowed applications under the Pittman Act covering about 8,000 acres. As indicated above, we expect these to fail for lack of discovery of water.

"2. Unallowed applications under the Pittman Act covering about 5,000 acres which would be rejected if the bill is enacted since the applicants as yet have no rights under the law.

"3. Rights-of-way granted to the Metropolitan Water District of Southern California, Nevada State Highway Department, Bureau of Reclamation, and to five utility or pipeline companies.

"4. Oil and gas lease covering about 19,000 acres.

"5. Oil and gas applications covering about 3,000 acres. These are subject to rejection because their allowance is discretionary under the law.

"6. Two Bureau of Land Management improvement projects (stock reservoirs).

"7. An active sand and gravel operation. Other mining claims, not of record in the Bureau, may exist in the area."

Under section 3 of the bill the rights of both the United States and other parties would be protected. The Bureau of Reclamation of this Department, however, believes that, because of the mountainous terrain, it may be necessary to route any future transmission lines through the area. Accordingly, we suggest the insertion after "reservations" at page 3, line 19, of the words "now or in the future," and the addition of the following sentence: "In establishing any future easements, however, no lands shall be included upon which substantial improvements have been placed by the grantee or its successor in interest."

We recommend a requirement that the State pay the purchase price within 5 years rather than 10 years. Moreover, the bill is not quite clear as to the time at which the fair market value of the lands is to be determined. If it is intended that the lands should be sold at their fair market value as of the date of the bill's enactment, we suggest the inclusion of the words ", as of the date of approval of this Act," after "value" at page 1, line 8. Such a provision is open to the objection that it permits the grantee to delay for 10 years in its purchase of the land, secure in the knowledge that the price for the lands will not increase and free from any obligation to pay interest because of the delayed payment.

While we are not opposed to the proposition that the land should be patented in installments of 10,000 acres or more, we recommend that the words "pro rata" at page 3, line 14, be deleted. If this

deletion is made the State would be required to pay the appraised value of the portion of the lands conveyed and not an arbitrary proportion of the appraised value of the whole area described in the bill. To conform to the provisions of section 2, we suggest that the words "or patents" be inserted after "patent" at page 1, line 10, and "or conveyances" after "conveyance" at page 3, line 16.

The bill does not state what disposition is to be made of the United States interests under oil and gas leases covering lands included in S. 4012. If these interests are to be conveyed to the Commission, the bill should so provide.

Since the land described in S. 4012 does not appear suitable for development under any existing Federal laws, since there has been no competing demand for this land, and since, under existing conditions, little use is being made of it or can be made of it, we interpose no objection to the bill's enactment. We do not consider that the enactment of S. 4012 would serve as a precedent for future sales of public lands en bloc. We merely regard S. 4012 as special legislation designed to meet a special situation.

Since I am informed that there is a particular urgency for the submission of the views of the Department, this report has not been cleared through the Bureau of the Budget and, therefore, no commitment can be made concerning the relationship of the views expressed herein to the program of the President.

Sincerely yours,

FRED A. SEATON,
Secretary of the Interior.

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Calendar No. 2677

84TH CONGRESS, 2d Session | SENATE | REPORT No. 2632

FACILITATING PRIVATE FINANCING OF MERCHANT VESSELS

JULY 18 (legislative day, JULY 16), 1956.—Ordered to be printed

Mr. MAGNUSON, from the Committee on Interstate and Foreign Commerce, submitted the following

REPORT

[To accompany H. R. 11554]

The Committee on Interstate and Foreign Commerce, to whom was referred the bill (H. R. 11554) to amend certain provisions of title XI of the Merchant Marine Act, 1936, as amended, to facilitate private financing of merchant vessels in the interest of national defense, and for other purposes, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

PURPOSE OF THE BILL

The bill, as introduced, provided for extending 100 percent mortgage insurance to cover loans for the construction or reconstruction of passenger ships. The bill, as passed by the House of Representatives, has been amended to enlarge its scope to include 100 percent mortgage insurance for merchant vessels, as opposed to merely passenger vessels. It is the intent of the Congress by such amendment to include "passenger vessels" in the term "merchant vessels." A technical amendment to the House bill has been made by the committee to clarify the language and assure private lending insitutions of the intent of the Congress.

On page 2, line 8, the words "of the principal amount" have been added so the amended bill will read:

> (d) The faith of the United States is solemnly pledged to the payment of interest on and the unpaid balance of the principal amount of each mortgage and loan insured under this title.

The purpose of the amendment is to conform to previous language used for special purpose vessels.

Title XI of the Merchant Marine Act, 1936, as amended, now authorizes the Secretary of Commerce to insure 100 percent of the principal of, and interest on, mortgages or construction loans on "special purpose" vessels, and 100 percent of the interest on but only 90 percent of the principal of mortgages and loans or other vessels. H. R. 11554 and S. 4020, as introduced before the individual Houses of Congress, proposed amendments to title XI, as amended, to authorize the Secretary of Commerce to insure 100 percent of the principal of and interest on mortgages or construction loans on *passenger vessels* [emphasis added]. An unsubsidized operator must place 12½ percent of the cost down and is eligible for Federal mortgage insurance on 90 percent of the remaining 87½ percent. A subsidized operator must make a downpayment of 25 percent and is eligible for Federal mortgage insurance for 90 percent of the 75 percent balance. The proposed bill still requires the downpayments but provides 100 percent insurance on the balance of the principal and interest. Recognition by the Congress of the need for special consideration to passenger vessels, as compared with other types of vessels, is found in various provisions of the 1936 act, as amended.

Section 503 (Government-financed construction-subsidized vessels) and section 509 (Government-financed non-construction-subsidized vessels) provide that in the event of default, the Government's recovery under mortgages on passenger vessels is limited to repossession of the vessels. Section 1104 (a) (10) provides that the sole recourse of the United States against a mortgagor in default under a Government-insured mortgage on a passenger vessel is limited to repossession of the vessel and assignment of insurance claims. Clarence G. Morse, Maritime Administrator, in his statement before the Senate committee said:

> The reason for this special treatment of passenger vessels is the very heavy capital investment required to purchase such vessels, the relative unadaptability of such vessels to trades other than those for which they are designed, and the heavy investment risk relative to prospective earnings. The money invested in a passenger vessel, which is relatively unadaptable to trades other than the trade for which it is designed, would buy a number of cargo vessels which are relatively more adaptable to other trades. In the case of passenger vessels the risk is greater relative to earnings and less widely spread than in the case of cargo vessels. Passenger vessels are essential to national defense. On the basis of Department of Defense requirements for passenger vessels immediately upon mobilization, our merchant fleet is now substantially deficient in such vessels.

The Department of Defense endorses the objectives of the legislation from the standpoint of national defense, pointing out, however, that the policy of insuring ship mortgages as practiced by this Administration and extended to passenger ships as herein proposed, is a matter for congressional determination and not within the purview of the Department. The House committee's report states that a memorandum prepared by a joint Maritime Administration-Navy group stated that from the standpoint of initial mobilization requirements, the Joint Chiefs of Staff estimate that there is today a deficiency of 15 large passenger vessels in the active merchant marine. In

addition, speaking for the Secretary of the Navy, Capt. N. J. Frank, Jr., USN, in a letter dated July 12, 1956, to the chairman of the Senate Committee on Interstate and Foreign Commerce stated:

> It is considered that passenger vessels with troop-carrying potentialities are of equal or greater defense value than many special purpose vessels in time of war. If the benefit of 100 percent insurance on the principal and interest of a mortgage or loan is to be granted for special-purpose vessels, it seems reasonable that it should also be granted for passenger vessels for carrying troops.

The need for additional American-flag passenger vessels which can readily be converted to troop carriers for national defense purposes appears to be an uncontroverted fact. The Comptroller General in commenting upon the passenger vessel aspect of the bill stated:

> * * * the considerably higher cost of passenger vessels and consequently larger uninsured portions of the mortgages, may make the financing of such vessels less attractive to lending institutions than that of other types of vessels. In summary, it appears that the reluctance of lending institutions to assume the risk of the 10 percent uninsured portions of mortgages and loans works a hardship on the mortgagors which was not intended by the present statute. Accordingly, we see no objection to the bill.

When title XI was amended in 1953 and 1954, the General Accounting Office believed the 90 percent mortgage insurance limitation would have the desirable effect that the lending institutions would assume a portion of the risk. In practical effect, according to all of the testimony, the lending institutions are uniformly requiring cash collateral to cover the uninsured 10 percent of the mortgage loans. Thus, 90 percent insurance has not procured banking participation in the risk but has thrown upon the operators the burden of an increased downpayment over the amount otherwise required by law. In addition, the 10 percent collateral requirement represents liquid assets which might be used to better advantage in the expansion of the merchant marine. It therefore appears that the 90 percent limitation has failed to accomplish its contemplated result and the increased downpayments by the morgagors may well be an unintended deterrent to the entire ship construction program, merchant-type vessels as well as passenger vessels.

Reviewing the record before the committee, there appears to be no opposition to and a great deal of support for the amendments to title XI to place passenger vessels in the same category as special-purpose vessels. The obvious need for passenger vessels as troop carriers and the equally obvious decline in American-flag passenger tonnage since 1939 due to war losses and obsolescence makes it incumbent upon the Congress to take the necessary legislative steps to overcome the deficiencies in existing law.

There has been ample time since the passage of Public Law 781 in 1954 to test the theory of 90-percent mortgage guaranty against actual practice. The record shows that only two major contracts for mortgage insurance have been approved by the Secretary of Commerce. In one of these, involving the conversion of two Mariners to passenger-cargo combination vessels, the mortgagor was required to

pledge collateral to secure the 10-percent portion of the mortgage which was not insured by the Government. In the other case, the mortgage was insured for 100 percent by the Government since the vessel was determined to be a special-purpose vessel. At the Senate hearings, a private operator testified that he is endeavoring to obtain private financing for the conversion of a Mariner to a passenger vessel and for the construction of a second passenger vessel but lending institutions are insisting upon cash collateral to cover the uninsured 10 percent of the mortgage. Since both of these proposed vessels are intended to be used upon an essential trade route not presently being served by an American-flag operator and both are intended to offer a new service to the American people in the form of essentially a one-class tourist service to Western Europe, it is most probable that the ships will never be built if existing law is not amended.

The additional risk to be assumed by the Government in this legislation is minimal if the record of Government loans and mortgage to date is any criterion. The legislation would do no violence whatsoever to the Government theory of private financing of ship construction. On the contrary, that theory would be greatly enhanced by means of making ship loans more attractive to long term investors. It would follow that the more the private money market becomes interested in the merchant marine, the broader will be the base of political and economic support for our national maritime policies and programs. Therefore, the committee concludes that the proposed legislation is highly desirable and is imperative and essential to any proposed program to build passenger vessels.

With regard to the expansion of the scope of the bill from passenger vessels to have it apply to all vessels, the record denotes the following: Hearings were held by the House Merchant Marine and Fisheries Committee on June 20, 1956. The House committee report on such hearings (H. Rept. 2468) states in part:

> The Maritime Administrator urged that the bill be amended so as to provide for 100 percent mortgage insurance on all ship construction loans and mortgages which are eligible for insurance. He stated:
>
> "The downpayment required by title XI for a mortgage to be eligible for insurance is 25 percent of the cost to the purchaser if the vessel is built with construction subsidy, and 12½ percent of such cost if the vessel is built without construction subsidy. This is the same downpayment as is required under title V when the United States accepts a mortgage as part of the payment for a vessel. The practical effect of only 90 percent insurance of mortgages on passenger vessels is to increase the downpayment required, since lenders require collateral to secure the uninsured portion, and to make the transaction not a nonrecourse transaction with respect to the uninsured portion of the mortgage.
>
> "The practical result of 90 percent insurance of mortgages in increasing the downpayment required applies to all vessels to which 90 percent insurance applies, because lenders require collateral to secure the uninsured portion of the mortgage.
>
> "In the Review of Maritime Subsidy Policy, issued by the Maritime Administration and the Department of Com-

merce on May 3, 1954, it is recommended (p. 99) that the Department of Commerce request amendments to title XI which would authorize 100 percent insurance of the unpaid principal of all ship loans and mortgages."

The Comptroller General of the United States in a letter dated June 28, 1956, to the chairman of the Senate committee stated in part:

> At a hearing on June 20 before the House Merchant Marine and Fisheries Committee on an identical bill (H. R. 11554) the Maritime Administrator reported that the 90 percent limitation upon the Government's insurance of mortgages had the practical effect (based upon nearly 3 years' experience under Public Law 288, 83d Cong.) of increasing the downpayment required of the mortgagors on all vessels subject to that limitation. In this connection, we had been advised that, even in connection with the construction of tankers under Public Law 575, 83d Congress, under which revenues for 10 years are assured by charter contracts with the Government, the lending institutions are requiring collateral or guarantees to cover the uninsured 10 percent of the mortgages. Accordingly, the Maritime Administration proposed an amendment which would extend 100 percent Government mortgage insurance coverage to all vessels.

The Senate hearings on the companion bill (S. 4020) were held 13 days after the House hearings. The statement of Clarence G. Morse, Martime Administrator, at the Senate hearings did not include a request for an amendment to extend 100 percent government mortgage insurance coverage to all vessels but suggested an amendment "to make more specific the type of passenger vessel for which it would authorize 100 percent insurance." In commenting upon this apparent inconsistency in his departmental recommendations Mr. Morse stated:

> My prepared statement was limited to the passenger vessels, and the Bureau of the Budget has cleared our statement on the passenger vessels, only. I did testify before the Merchant Marine and Fisheries Committee, and stated my personal views that I favored broadening the bill to include all other classes of vessels for the similar reasons mentioned by Mr. Andrews (GAO). I have not yet had an opportunity to get that view cleared either favorably or adversely at Commerce and Budget levels.
>
> Senator POTTER. That is the Maritime Board's commitment but it hasn't been cleared through the other agencies?
>
> Mr. MORSE. That is correct.

A subsequent communication from the Comptroller General dated July 13, 1956, indicated that he had no objection to the extension of 100 percent mortgage and loan insurance to all types of vessels. Accordingly, from the record, there appears to be no reason why the bill should not be extended to apply to all vessels instead of merely passenger vessels.

The Department of Commerce, in a letter dated July 18, 1956, stated it would interpose no objection to the enactment of H. R. 11554 "if your committee deems such action to be desirable." One conforming amendment is suggested.

Your committee does deem enactment of the House bill desirable and has made the suggested amendment to the legislation.

The Bureau of the Budget advised Secretary Weeks that there was no objection to the submission of the Department's favorable report.

No reply was received from the Treasury Department to the committee's request for their views on the Senate bill. The other Department reports follow:

SECRETARY OF COMMERCE,
Washington, D. C., July 18, 1956.

Hon. WARREN G. MAGNUSON,
Chairman, Committee on Interstate and Foreign Commerce,
United States Senate, Washington, D. C.

DEAR MR. CHAIRMAN: This letter is in reply to your request of June 8, 1956, for the views of this Department with respect to S. 4020, a bill to amend certain provisions of title XI of the Merchant Marine Act, 1936, as amended, to facilitate private financing of passenger vessels in the interest of national defense, and for other purposes, and to your request of July 9, 1956, for the views of this Department with respect to H. R. 11554, an act to amend certain provisions of title XI of the Merchant Marine Act, 1936, as amended, to facilitate private financing of merchant vessels in the interest of national defense, and for other purposes.

S. 4020 would amend title XI of the Merchant Marine Act, 1936, to authorize the Secretary of Commerce to insure 100 percent of the unpaid principal, and interest on, loans and mortgages on passenger vessels which meet the requirements set out in section 503 of title V of the act. Title XI now provides that the Secretary may insure the interest on and 90 percent of the unpaid principal of loans and mortgages on vessels, including passenger vessels, except that in the case of special-purpose vessels he may insure the interest and 100 percent of the principal. The statute does not define the term "special-purpose vessel," but the legislative history of the act shows that the specific vessels Congress had in mind were roll-on roll-off vessels and heavy-lift vessels. The term, therefore, would not include passenger vessels.

H. R. 11554 would authorize 100 percent insurance of the unpaid principal of all ship loans and mortgages.

The Department recommends enactment of S. 4020 if amended as set forth below and would interpose no objection to enactment of H. R. 11554 with one minor amendment if the committee believes that the principle of 100 percent insurance should be extended to all Government ship loans and mortgages.

Section 503 of title V, as amended by Public Law 586, 82d Congress, authorizes the financing of the sale of vessels built under title V by the acceptance by the United States of a first preferred mortgage in the amount of the unpaid purchase price. In the case of passenger vessels with the required characteristics, the mortgage may provide that if the purchaser defaults with respect to his obligations to pay principal or interest but complies with all other terms of the mortgage, the sole recourse of the United States against the purchaser shall be repossession of the vessel. With respect to such vessels, the United States could not obtain a deficiency judgment against the purchaser

for the amount of the mortgage which the value of the vessel at the time of default is insufficient to pay.

The reason for this special treatment of passenger vessels is the very heavy capital investment required to purchase such vessels, the relative unadaptability of such vessels to trades other than those for which they are designed, and the heavy investment risk relative to prospective earnings. The money invested in a passenger vessel, which is relatively unadaptable to trades other than the trade for which it is designed, would buy a number of cargo vessels which are relatively more adaptable to other trades. In the case of passenger vessels the risk is greater relative to earnings and less widely spread than in the case of cargo vessels. Passenger vessels are essential to national defense. On the basis of Department of Defense requirements for passenger vessels immediately upon mobilization, our merchant fleet is now substantially deficient in such vessels.

Section 1104 (a) (10) of title XI provides that in the case of a passenger vessel having the characteristics set forth in section 503 of the act, a mortgage is eligible for insurance, notwithstanding that under the terms of the mortgage the sole recourse of the United States as assignee of the mortgage is to repossess the vessel. The way the lender realizes on the insurance is to assign the note and mortgage to the United States which in turn pays the lender the unpaid interest and the insured portion of the unpaid principal. When the mortgage is not a nonrecourse mortgage, the United States would proceed to collect the debt from the shipowner by selling the vessel at a judicial sale and obtaining a deficiency judgment against him in the amount that the sales price is less than the unpaid debt. After reimbursing itself for the insurance it has paid, the United States would then pay the lender the unpaid portion of the debt to the extent the proceeds of sale and collection on the judgment are sufficient to do so.

In the case of a nonrecourse mortgage, since the United States, as assignee of the mortgage, could not obtain a deficiency judgment against the debtor, the only way the lender could enable itself to collect the uninsured portion of the debt would be to take from the borrower, at the time the mortgage is placed, notes in the amount of the uninsured portion of the mortgage upon which the lender would proceed against the debtor after assigning the mortgage to the United States. The lender would require collateral to secure these notes.

The downpayment required by title XI for a mortgage to be eligible for insurance is 25 percent of the cost to the purchaser if the vessel is built with construction subsidy, and 12½ percent of such cost if the vessel is built without construction subsidy. This is the same downpayment as is required under title V when the United States accepts a mortgage as part of the payment for a vessel. The practical effect of only 90 percent insurance of mortgages on passenger vessels is to increase the downpayment required, since lenders require collateral to secure the uninsured portion, and to make the transaction not a nonrecourse transaction with respect to the uninsured portion of the mortgage.

S. 4020 should be amended to make more specific the type of passenger vessel for which it would authorize 100 percent insurance. In line 9, page 1, and in line 12, page 2, therefore, the words "section 503 of" should be inserted immediately before the word "title." The following sections should be added to the bill:

"SEC. 3. The proviso in section 1101 (f) of such Act, as amended, is amended by inserting after the word 'vessels' the words 'and certain passenger vessels.'

"SEC. 4. Section 1103 (d) of such Act, as amended (Public Law 613, 84th Congress), is amended by inserting after the words 'national defense' the following: 'and in the case of passenger vessels having the tonnage, speed, passenger accommodations, and other characteristics set forth in section 503 of title V of this Act'."

With the amendments proposed, we recommend favorable consideration of S. 4020. As stated above, the Department would interpose no objection to the enactment of H. R. 11554 if your committee deems such action to be desirable. In the event such action is deemed to be desirable, the Department recommends that H. R. 11554 be amended by inserting after the words "unpaid balance of" on page 2, line 8, the words "the principal amount of." This amendment would merely conform this language to other parts of the section and avoid any ambiguity which might arise from variation in the language as between parts of the statute.

We have been advised by the Bureau of the Budget that it would interpose no objection to the submission of this report to your committee.

Sincerely yours,

SINCLAIR WEEKS,
Secretary of Commerce.

DEPARTMENT OF THE NAVY,
OFFICE OF THE SECRETARY,
Washington 25, D. C., July 12, 1956.

Hon. WARREN G. MAGNUSON,
Chairman, Committee on Interstate and Foreign Commerce,
United States Senate, Washington 25, D. C.

MY DEAR MR. CHAIRMAN: Your request for comment on S. 4020, a bill to amend certain provisions of title XI of the Merchant Marine Act, 1936, as amended to facilitate private financing of passenger vessels in the interest of national defense, and for other purposes, has been assigned to this Department by the Secretary of Defense for the preparation of a report thereon expressing the views of the Department of Defense.

S. 4020 would amend sections 1103 (a) and (b) of the Merchant Marine Act, 1936, as amended to provide that in the case of passenger vessels having the characteristics set forth in title V of the act, in addition to special-purpose vessels essential to national defense, the Secretary of Commerce may insure 100 percent of the principal and interest for any mortgage or loan eligible for insurance provided in the act.

It is believed that this bill may provide some stimulus to the construction of passenger vessels, thereby furthering the Maritime Administration's long-range program for replacement of our country's passenger fleet. The present shipbuilding industry is badly in need of additional work and, for this reason, it is considered that the special-benefit which would be accorded private operators by this bill is justified. It is considered that passenger vessels with troop carrying potentialities are of equal or greater defense value than many special-

purpose vessels in time of war. If the benefit of 100 percent insurance on the principal and interest of a mortgage or loan is to be granted for special-purpose vessels, it seems reasonable that it should also be granted for passenger vessels for carrying troops.

Accordingly, the Department of the Navy, on behalf of the Department of Defense, favors enactment of S. 4020. However, it should be made clear that the important policy decision regarding whether any pledge of the faith and credit of the United States to cover insurance on passenger vessels would be in the overall national interest is not within the purview of the Department of Defense.

This report has been coordinated within the Department of Defense in accordance with procedures prescribed by the Secretary of Defense.

The Department of the Navy has been advised by the Bureau of the Budget that there is no objection to the submission of this report on S. 4020 to the Congress.

For the Secretary of the Navy.

Sincerely yours,

N. J. FRANK, Jr.,
Captain, United States Navy,
Acting Director, Office of Legislative Liaison.

COMPTROLLER GENERAL OF THE UNITED STATES,
Washington 25, June 28, 1956.

Hon. WARREN G. MAGNUSON,
Chairman, Committee on Interstate and Foreign Commerce,
United States Senate

DEAR MR. CHAIRMAN: Reference is made to your letter of June 8, 1956, enclosing copies of various bills, including S. 4020, 84th Congress, 2d session, entltled "A bill to amend certain provisions of title XI of the Merchant Marine Act, 1936, as amended, to facilitate private financing of passenger vessels in the interest of national defense, and for other purposes," and inviting our comments on the proposed measures.

S. 4020 would amend sections 1103 (a) and 1103 (b) of Title XI of the Merchant Marine Act, 1936, as amended, to authorize the Secretary of Commerce to insure 100 percent of the principal of and interest on mortgages or construction loans on passenger vessels. At present, the Secretary is authorized to insure 100 percent of the principal of and interest on mortgages and loans on special-purpose vessels, and 100 percent of the interest on but only 90 percent of the principal of mortgages and loans on other vessels.

Since the amendment of the mortgage insurance title of the 1936 act by the act of September 3, 1954, Public Law 781, 83d Congress, two major contracts for mortgage insurance have been approved by the Secretary of Commerce. In one of these, involving the conversion of two Mariners to passenger-cargo combination vessels, the mortgagor was required to pledge collateral to secure the 10 percent portion of the mortgage which was not insured by the Government. In the other case, the mortgage was insured for 100 percent by the Government since the vessel was determined to be a special-purpose vessel. We are informed that another operator who is endeavoring to obtain private financing for the conversion of a Mariner to a passenger vessel

and for the construction of a second passenger vessel has reported that lending institutions are insisting upon cash collateral to cover the uninsured 10 percent of the mortgage. The effect of these requirements is that the intent of the present statute, insofar as it contemplated an assumption of risk by lending institutions of the uninsured portions of the mortgates, is not being realized.

Recognition by the Congress of the need for special cosideration to passenger vessels, as compared with other types of vessels, is found in various provisions of the 1936 act, as amended. In this connection, sections 503 (Government-financed construction-subsidized vessels) and 509 (Government financed non-construction-subsidized vessels) provide that in the event of default, the Government's recovery under mortgages on passenger vessels is limited to repossession of the vessels. Also, section 1104 (a) (10) provides that the sole recourse of the United States against a mortgagor in default under a Government-insured mortgage on a passenger vessel is limited to repossession of the vessel and assignment of insurance claims. The reason for this special consideration is probably that the operations of passenger vessels are considered to be less profitable than the operations of cargo vessels and are less adaptable to services other than those for which the vessels are designed. These factors, together with the considerably higher cost of passenger vessels and consequent larger uninsured portions of the mortgages, may make the financing of such vessels less attractive to lending institutions than that of other types of vessels.

In summary, it appears that the reluctance of lending institutions to assume the risk of the 10 percent uninsured portions of mortgages and loans works a hardship on the mortgagors which was not intended by the present statute. Accordingly, we see no objection to the bill.

At a hearing on June 20 before the House Merchant Marine and Fisheries Committee on an identical bill (H. R. 11554) the Maritime Administrator reported that the 90 percent limitation upon the Government's insurance of mortgages had the practical effect (based upon nearly 3 years experience under Public Law 288, 83d Cong.) of increasing the downpayment required of the mortgagors on all vessels subject to that limitation. In this connection, we had been advised that, even in connection with the construction of tankers under Public Law 575, 83d Congress, under which revenues for 10 years are assured by charter contracts with the Government, the lending institutions are requiring collateral or guarantees to cover the uninsured 10 percent of the mortgages. Accordingly, the Maritime Administration proposed an amendment which would extend 100 percent Government mortgage insurance coverage to all vessels.

In view of (1) the facts now developed as to the failure of the 90-percent limitation to accomplish its contemplated result, (2) the fact that the proposed amendment would not require any greater risk by the Government than has been accepted under title V since the enactment of the Merchant Marine Act of 1936, and (3) the fact that increased downpayments by the mortgagors may well be an unintended deterrent to the ship-construction program, we offer no objection to the favorable consideration of S. 4020 nor to the anticipated recommendation by the Maritime Administrator for an amendment thereto, as was made with respect to H. R. 11554.

Separate reports will be furnished on the other bills enclosed with your letter of June 8.

Sincerely yours,

JOSEPH CAMPBELL,
Comptroller General of the United States.

JULY 11, 1956.

Hon. WARREN G. MAGNUSON,
Chairman, Committee on Interstate and Foreign Commerce,
United States Senate, Washington, D. C.

DEAR SENATOR: This is in response to your request for the views of the Department of Justice concerning the bill (H. R. 11554), to amend certain provisions of title XI of the Merchant Marine Act, 1936, as amended, to facilitate private financing of merchant vessels in the interest of national defense, and for other purposes.

The bill has been examined, but since the subject matter thereof is not related to any of the activities of the Department of Justice, we would prefer not to offer any comment concerning it.

Sincerely,

WILLIAM P. ROGERS,
Deputy Attorney General.

COMPTROLLER GENERAL OF THE UNITED STATES,
Washington 25, July 13, 1956.

B–115403

Hon. WARREN G. MAGNUSON,
Chairman, Committee on Interstate and Foreign Commerce,
United States Senate.

DEAR MR. CHAIRMAN: Further reference is made to your letter of July 9, 1956, acknowledged July 10, inviting our comments on H. R. 11554, 84th Congress, 2d session.

Title XI of the Merchant Marine Act, 1936, as amended, now authorizes the Secretary of Commerce to insure 100 percent of the principal of and interest on mortgages or construction loans on "special purpose" vessels, and 100 percent of the interest on but only 90 percent of the principal of mortgages and loans on other vessels. H. R. 11554, which will authorize the Secretary of Commerce to provide 100 percent Government mortgage insurance coverage for all types of vessels, is consonant with the recommendation of the Maritime Administrator before the House Merchant Marine and Fisheries Committee on June 20, to which we adverted in our report of June 28 to your committee on S. 4020. S. 4020 and H. R. 11554 (as originally introduced) would have extended the present 100 percent mortgage and loan insurance coverage on special-purpose vessels to passenger vessels only.

As stated in our report of June 28, supra, we perceive no objection to the extension of 100 percent mortgage and loan insurance to all types of vessels in view of (1) the facts now developed as to the failure of the 90 percent limitation to accomplish the contemplated result of having the mortgagees assume a portion of the risk, (2) the fact that the proposal would not require any greater risk by the Govern-

ment than has been accepted under title V since the enactment of the Merchant Marine Act of 1936, and (3) the evidence and reports that the practical result of the 90 percent limitation has been to increase downpayments by the mortgagees, which may well be an unintended deterrent to the ship construction program.

Sincerely yours,

JOSEPH CAMPBELL,
Comptroller General of the United States.

CHANGES IN EXISTING LAW

In compliance with subsection 4 of rule XXIX of the Standing Rules of the Senate, changes in existing law made by the bill, as reported, are shown as follows (new matter is printed in italics, existing law to be omitted is enclosed in black brackets, and existing law in which no change is proposed is shown in roman):

TITLE XI—MERCHANT MARINE ACT, 1936, AS AMENDED

(46 U. S. C. 1271–1279)

SEC. 1271. Definitions.

(a) * * *
(b) * * *
(c) * * *
(d) * * *
(e) * * *

(f) The term "actual cost" of a vessel as of any specified date means the aggregate as determined by the Secretary of Commerce of (i) all amounts paid by or for the account of the mortgagor or borrower on or before that date, and (ii) all amounts which the mortgagor or borrower is then obligated to pay from time to time thereafter, for the construction, reconstruction or reconditioning (including designing, inspecting, outfitting, and equipping) of such vessel: *Provided*, That in no event [, except for certain special purpose vessels as provided for in subsections (a) and (b) of section 1273 of this title,] shall the Secretary of Commerce pay as insurance under this title an amount in excess of [90 per centum of] 75 per centum, or [90 per centum of] 87½ per centum, as the case may be, of the amount paid by or for the account of the mortgagor or borrower for the construction, reconstruction, or reconditioning (including designing, inspecting, outfitting, and equipping) of such vessel.

SEC. 1273. Authorization of Secretary to insure mortgages—(a) Limitation on per cent of mortgage.

The Secretary of Commerce, upon application by the mortgagor, is authorized to insure as hereinafter provided the interest on and [90 per centum of] the unpaid balance of the principal of, any mortgage offered to him which is eligible for insurance as hereinafter provided and, upon such terms as the Secretary of Commerce may prescribe, is authorized to make commitments to insure any such mortgage prior to the date of execution or disbursement thereon [Provided, That in the case of special purpose vessels certified by the Secretary of Defense to be essential to national defense, the Secretary of Commerce may insure 100 per centum of the principal of and interest on any such

mortgage eligible for insurance as hereinafter provided and upon such terms as the Secretary of Commerce may prescribe.]

(b) Insurance.

The Secretary of Commerce, upon application by the borrower, is authorized to insure as hereinafter provided the interest on and [90 per centum of] the unpaid balance of the principal of, any loan offered to him which is eligible for insurance as hereinafter provided and, upon such terms as the Secretary of Commerce may prescribe, is authorized to make commitments to insure any such loan prior to the date of execution or disbursement thereon. [Provided, That in the case of special purpose vessels certified by the Secretary of Defense to be essential to national defense, the Secretary of Commerce may insure 100 per centum of the principal of and interest on any such loan eligible for insurance as hereinafter provided and upon such terms as the Secretary of Commerce may prescribe.]

(d) Pledge of United States.

The faith of the United States is solemnly pledged to the payment of [the] interest on and [90 per centum of] the unpaid balance of the principal amount of each mortgage and loan insured under this title.

SEC. 1275. Defaults—(a) Rights of mortgagee; rights of lender.

(1) In the event of any act or failure to act which gives the mortgagee the right to foreclose, any such events being herein called defaults, and failure on the part of the mortgagor to remove and remedy the default within thirty days, the mortgagee shall have the right (i) in the case of a default in respect of the payment of principal or interest or the payment of any amount to provide for the payment of premium charges for mortgage insurance, to demand at or before the expiration of sixty days after any such default, and (ii) in the case of any other default, to demand at any time during the continuance of such default, payment by the Secretray of Commerce of [the insured portion of] the unpaid principal amount of said mortgage and of the unpaid interest thereon to the date of payment: * * * Within a period of thirty days from the date of any such demand, the Secretary of Commerce shall accept the assignment and promptly pay to the mortgagee [the insured portion of] the unpaid principal amount of said mortgage and unpaid interest thereon to the date of payment: * * *.

(2) * * * (i) * * * (ii) in the case of any other default, to demand at any time during the continuance of such default, payment by the Secretary of Commerce of [the insured portion of] the unpaid principal amount of said loan and of the unpaid interest thereon to the date of payment: * * * Within n period of thirty days from the date of any such demand, the Secretary of Commerce shall accept the assignment and promptly pay to the lender, [the insured portion of] the unpaid principal amount of said loan and unpaid interest thereon to the date of payment: * * *

(c) Foreclosure proceedings; action against borrower.

* * * (1) In the event the Secretary of Commerce shall receive through the sale of the vessel an amount of cash in excess of any payment made to the mortgagee under subsection (a) (1) of this section and the expenses of collection of such amount, he shall pay

[to the mortgagee such cash amount to the extent that the mortgagee has not been made whole through other sources for amounts advanced to the mortgagor but in no event shall such payments to the mortgagee exceed 10 per centum of the unpaid principal amount of mortgage and the interest thereon, and any excess of the amounts thus due the Government and the mortgagee shall be paid to the mortgagor.] *such excess to the borrower.*

(2) * * * In the event the Secretary of Commerce shall receive through the sale of the property an amount of cash in excess of any payment made to the lender under subsection (a) (2) of this section and the expenses of collection of such amount, he shall pay [to the lender such cash amount to the extent that the lender has not been made whole through other sources for amounts advanced to the borrower but in no event shall such payment to the lender exceed 10 per centum of the unpaid principal amount of loan and the interest thereon, and any excess of the amounts thus due the Government and the lender shall be paid to the borrower.] *such excess to the borrower.*

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Calendar No. 2678

84TH CONGRESS, 2d Session } SENATE { REPORT No. 2633

CREATION OF ADDITIONAL CIRCUIT AND DISTRICT JUDGES

JULY 18 (legislative day JULY 16), 1956.—Ordered to be printed

Mr. EASTLAND, from the Committee on the Judiciary, submitted the following

REPORT

[To accompany S. 1256]

The Committee on the Judiciary, to which was referred the bill (S. 1256) to provide for the appointment of additional circuit and district judges, having considered the same, reports favorably thereon with amendments and recommends that the bill, as amended, do pass.

AMENDMENTS

1. On page 1, line 3, strike out "(a)".

2. On page 1, lines 4 and 5, strike the words "two additional circuit judges for the ninth circuit" and insert in lieu thereof "one additional circuit judge for the second circuit."

3. On page 1, following line 9, amend the table by striking out "Ninth ---------- 11" and inserting in lieu thereof "Second ---------- 7".

4. On page 2, line 3, strike out "ninth" and insert in lieu thereof "eighth."

5. On page 2, line 7, following the comma, add the following:

one additional district judge for the district of Arizona,

6. On page 2, line 8, following the comma, add the following:

one additional district judge for the district of Colorado, one additional district judge for the district of Connecticut, two additional district judges for the northern district of Illinois.

7. On page 2, line 11, strike all down to and including the word "Louisiana" in line 12 and insert in lieu thereof the following:

two additional district judges for the eastern district of Louisiana, one district judge for the eastern and western districts of Louisiana, one additional district

judge for the district of Maine, one additional district judge for the district of Maryland, one additional district judge for the district of Massachusetts, one additional district judge for the eastern district of Michigan.

8. On page 2, line 13, following the comma, add the following:

one additional district judge for the district of New Hampshire, one additional district judge for the eastern district of New York,

9. On page 2, line 17, following the comma, strike the words "and one additional district judge" and insert in lieu thereof "two additional district judges".

10. On page 2, line 18, change the period to a comma and add the following:

one additional district judge for the district of Puerto Rico, one additional district judge for the district of Rhode Island, one additional district judge for the eastern and western districts of South Carolina, one additional district judge for the eastern district of Tennessee, one additional district judge for the northern district of Texas, one additional district judge for the western district of Texas, one additional district judge for the district of Vermont, and one additional district judge for the district of Wyoming. The existing judgeships for the districts of Nevada, New Mexico, South Dakota, the western district of Pennsylvania, and the district of Utah, created by paragraphs (1), (2), (3), (5), and (6) of section 2 (b) of the Act entitled "An Act to provide for the appointment of additional circuit and district judges, and for other purposes," approved February 10, 1954 (Public Law 294, Eighty-third Congress, second session), shall be permanent.

11. On page 2, line 21, following the comma, add the following:

and the changes made by sections 5 and 6 hereof,

12. The table on page 3 is amended to reflect amendments 5 through 10.

13. On page 3, immediately following the table, add the following new section:

SEC. 3. Section 134 of title 28 of the United States Code is amended by adding at the end thereof a new subsection as follows:

"(d) One of the district judges for the eastern district of Louisiana shall reside at Baton Rouge."

14. On page 3, line 1, strike the figure "3" and insert in lieu thereof the figure "4".

15. On page 4, line 4, strike out "$15,000" and insert in lieu thereof "$22,500".

16. On page 4, line 9, following the word "shall", insert the word "permanently".

17. On page 4, following line 11, add the following new sections:

SEC. 5. (a) Section 114, title 28, United States Code, is amended to read as follows:

"§ 114. North Dakota.

"North Dakota is divided into two judicial districts, to be known as the Eastern and Western Districts of North Dakota.

"EASTERN DISTRICT

"(a) The eastern district comprises two divisions.

"(1) The northern division comprises the counties of Benson, Bottineau, Cavalier, Grand Forks, McHenry, Nelson, Pembina, Pierce, Ramsey, Rolette, Towner, Traill, and Walsh.

"Court for the northern division shall be held at Devils Lake and Grand Forks.

"(2) The southern division comprises the counties of Barnes, Cass, Dickey, Eddy, Foster, Griggs, La Moure, Ransom, Richland, Sargent, Sheridan, Steele, Stutsman, and Wells.

"Court for the southern division shall be held at Fargo and Jamestown.

"WESTERN DISTRICT

"(b) The western district comprises two divisions.

"(1) The northern division comprises the counties of Burke, Divide, McKenzie, Mountrail, Renville, Ward, and Williams.

"Court for the northern division shall be held at Minot and Williston.

"(2) The southern division comprises the counties of Adams, Billings, Bowman, Burleigh, Dunn, Emmons, Golden Valley, Grant, Hettinger, Kidder, Logan, McIntosh, McLean, Mercer, Morton, Oliver, Sioux, Slope, and Stark.

"Court for the southern division shall be held at Bismarck and Dickinson."

(b) One of the district judges for the district of North Dakota holding office immediately prior to the effective date of this section shall, on and after such date, be the district judge for the eastern district of North Dakota, and the other district judge for the district of North Dakota holding office immediately prior to the effective date of this section shall, on and after such date, be the district judge for the western district of North Dakota. The assignment of such judges to the respective districts shall be made by the Judicial Council of the Eighth Circuit upon the basis of an agreement between such judges or, in the event of their failure to reach such agreement, upon such other basis as may be determined by the Judicial Council of the Eighth Circuit. The district attorney and marshal for the district of North Dakota holding office immediately prior to the effective date of this section shall, during the remainder of their present terms of office be the district attorney and marshal, respectively, for the eastern district of North Dakota.

SEC. 6. (a) Section 84 (a) of title 28 of the United States Code is hereby amended as follows:

"(1) By amending the first sentence thereof so as to read: 'The northern district comprises three divisions.'.

"(2) By amending the second subparagraph thereof to read as follows:

" '(2) The southern division comprises the counties of Marin, Monterey, San Benito, San Francisco, San Mateo, Santa Clara, and Santa Cruz. Court for the southern division shall be held at San Francisco.'.

"(3) By adding at the end thereof a new subparagraph as follows:

" '(3) The eastern division comprises the counties of Alameda and Contra Costa. Court for the eastern division shall be held at the county seat of Alameda County.'.

"(b) Section 84 of title 28 of the United States Code is amended by striking out subsection (b) and inserting in lieu thereof the following:

" 'CENTRAL DISTRICT

" '(b) The central district comprises two divisions.

" '(1) The northern division comprises the counties of Fresno, Inyo, Kern, Kings, Madera, except Yosemite National Park, Mariposa except Yosemite National Park, Merced, and Tulare.

" 'Court for the northern division shall be held at Fresno.

" '(2) The southern division comprises the counties of Los Angeles, Orange, Riverside, San Bernardino, San Luis Obispo, Santa Barbara, and Ventura.

" 'Court for the southern division shall be held at Los Angeles.

" 'SOUTHERN DISTRICT

" '(c) The southern district comprises the counties of Imperial and San Diego.

" 'Court for the southern district shall be held at San Diego.' "

"(c) Nine of the district judges for the southern district of California holding office immediately prior to the effective date of this section shall, on and after such date, be district judges for the central district of California, and the other two district judges for the southern district of California holding office immediately prior to the effective date of this section shall continue, on and after such date, to be the district judges for the southern district of California. The assignment of such judges to the respective districts shall be made by the Judicial Council of the Ninth Circuit upon the basis of an agreement among such judges or, in the event of their failure to reach such agreement, upon such other basis as may be determined by the Judicial Council of the Ninth Circuit. The district attorney and marshal for the southern district of California holding office imme-

diately prior to the effective date of this section shall, during the remainder of their present terms of office, be the district attorney and marshal, respectively, for the central district of California."

SEC. 7. The second sentence of section 81 (a) (2) of title 28 of the United States Code is hereby amended to read as follows: "Court for the Northeastern Division shall be held at Huntsville and Decatur."

SEC. 8. The second sentence of section 93 (b) (2) of title 28, United States Code, is amended to read as follows: "Court for the Southern Division shall be held at Alton, Quincy and Springfield."

SEC. 9. Sections 5 and 6 of this Act shall take effect on January 1, 1957.

18. Amend the title so as to read:

A bill to provide for the creation of additional circuit and district judgeships, and for other purposes.

PURPOSE OF AMENDMENTS

The purpose of the proposed amendments is to provide for an increase in the number of judges, to provide for places of holding court, to remedy a number of factual situations presented by the evidence submitted, and to make technical corrections as to form.

PURPOSE OF THE BILL

The aim of the proposed legislation, as amended, is to provide for an increase in district court judges where such need appears to have been presented and justified by the evidence submitted. The legislation provides for the creation of 2 circuit judgeships and 34 additional district judgeships. The new district judgeships created by the bill will provide additional judges, where needed, as follows:

One additional district judgeship for the district of Arizona, 1 additional district judgeship for the northern district of California, 1 additional district judgeship for the district of Colorado, 1 additional district judgeship for the district of Connecticut, 2 additional district judgeships for the northern district of Illinois, 1 additional district judgeship for the northern and southern districts of Iowa, 1 additional district judgeship for the district of Kansas, 2 additional district judgeships for the eastern district of Louisiana, 1 additional district judgeship for the eastern and western districts of Louisiana, 1 additional district judgeship for the district of Maine, 1 additional district judgeship for the district of Maryland, 1 additional district judgeship for the district of Massachusetts, 1 additional district judgeship for the eastern district of Michigan, 1 additional district judgeship for the southern district of Mississippi, 1 additional district judgeship for the district of New Hampshire, 1 additional district judgeship for the eastern district of New York, 3 additional district judgeships for the southern district of New York, 1 additional district judgeship for the eastern, middle and western districts of North Carolina, 1 additional district judgeship for the northern district of Ohio, 2 additional district judgeships for the eastern district of Pennsylvania, 1 additional district judgeship for the district of Puerto Rico, 1 additional district judgeship for the district of Rhode Island, 1 additional district judgeship for the eastern and western districts of South Carolina, 1 additional district judgeship for the eastern district of Tennessee, 1 additional district judgeship for the northern district of Texas, 1 additional district judgeship for the western dis-

trict of Texas, 1 additional district judgeship for the district of Vermont, 1 additional district judgeship for the district of Wyoming, and 1 additional district judgeship for the district of Alaska.

Section 5 of the proposed legislation provides for a division of the district of North Dakota into an eastern district and a western district.

Section 6 of the bill provides for the redistricting of the judicial districts of the State of California.

Sections 7 and 8 of the bill authorize and provide for the holding of court at Decatur, Ala., and Alton, Ill.

Section 9 of the bill provides for the time when section 5, relating to the division of the district of North Dakota into an eastern and western district, and section 6, relating to the judicial district of California, shall take effect.

STATEMENT

Public Law 294, 83d Congress, 2d session, provided for the addition of circuit and district judges to the Federal judicial system in an effort to enable the judiciary to alleviate the tremendous backlog of new cases being filed in the courts. The report on that legislation indicated that the legislation submitted to the Congress was intended only to take care of the minimum needs for an efficient Federal judiciary. It was not contemplated, nor is it now contemplated, that either Public Law 294 or the instant legislation will result in a cure-all for all of the congestion of cases within the Federal judicial system. But with this supplemental legislation, it is hoped and expected that the rights of the litigants in the Federal courts will be more adequately met, and with greater dispatch than has been the case in the past.

Hearings were held on S. 1256, introduced by Senator Kilgore, and amendments thereto. These hearings also include testimony on S. 144, introduced by Senator Schoeppel, to provide for the appointment of a district judge for the district of Kansas; S. 149, introduced by Senators Hickenlooper and Martin of Iowa, to provide for the appointment of a a district judge for the northern and southern districts of Iowa; S. 208, introduced by Senator Goldwater, to provide for the appointment of a district judge for the district of Arizona; S. 257, introduced by Senator Eastland, to provide for the appointment of an additional district judge for the southern district of Mississippi; S. 854, introduced by Senator Knowland, to provide for a new third division of the northern judicial district of California; S. 927, introduced by Senators Kuchel and Knowland, to provide that Imperial and San Diego Counties in the State of California shall constitute a new and separate judicial district to be known as the southern district of California, and to redesignate the present southern district of California as the central district of California; S. 1045, sponsored by Senators Bible, Anderson, Chavez, Duff, Malone, Martin of Pennsylvania, and Mundt, to make permanent certain temporary judgeships; S. 1164, introduced by Senator Bricker, to provide for the appointment of a district judge for the southern district of Ohio; S. 1470, introduced by Senators Bush and Purtell, to provide for the appointment of a district judge for the district of Connecticut; S. 1634, introduced by Senators Millikin and Allott, to provide for the appointment of a district judge for the district of Colorado; S. 2070, introduced by

Senator Butler, to provide for the appointment of a district judge for the district of Maryland, and S. 2173, introduced by Senator Kefauver, to provide for the appointment of an additional circuit judge for the second circuit.

Since the hearings on the above-mentioned bills, the Judicial Conference has recommended the following additional judgeships, which are included in this legislation:

One additional district judge for the eastern district of Pennsylvania (making a total of 2 additional judgeships recommended for this district); 1 additional district judgeship for the district of Maryland, and 1 additional district judgeship for the western district of Texas.

The committee is concerned about the length of time necessary to dispose of cases before the courts, as has been its concern in previous legislation reported to the Senate. Again, it is emphasized that inefficient or inadequate personnel should not be permitted to undermine the functions of the Federal courts, for to deprive litigants of reasonably quick action is to delay justice to the point where the benefits of justice are often denied.

As stated before, this legislation is being reported in the belief that, without question, the benefits it will accomplish will advance the general welfare of the public. The bill considers only those situations that the committee has considered before or what has been brought to its attention, and then only as to what it believes to be the minimum requirements needed to alleviate an undesirable situation. After the enactment of Public Law 294 in the second session of the 83d Congress, the committee reported to the Senate S. 2910, which was not acted upon by the Senate during the second session of the Congress. The present bill incorporates some of the provisions of S. 2910, together with additional recommendations that have been submitted by the Judicial Conference of the United States and other situations that have come to the attention of the committee.

The present legislation contains three categories of judgeships. The first category embraces some of the provisions previously reported in S. 2910 of the 83d Congress. The second category of judges are those recommended by the Judicial Conference of the United States, and comprise the following: One additional circuit judgeship for the Court of Appeals for the Second Circuit, 1 additional district judgeship for the district of Connecticut, 1 additional district judgeship for the eastern district of New York, 3 additional district judgeships for the southern district of New York, 2 additional district judgeships for the eastern district of Pennsylvania, 1 additional district judgeship for the eastern, middle, and western districts of North Carolina, 1 additional district judge for the district of Maryland, 1 additional district judgeship for the southern district of Mississippi, 1 additional district judgeship for the eastern district of Louisiana, 1 additional district judgeship for the northern district of Texas, 1 additional district judgeship for the western district of Texas, 1 additional district judgeship for the eastern district of Michigan, 1 additional district judgeship for the northern district of Ohio, 1 additional district judgeship for the northern and southern districts of Iowa, 1 additional district judgeship for the third division of the district of Alaska, 1 additional district judgeship for the northern district of California, 1 additional district judgeship for the district of Colorado, and 1 additional district

judgeship for the district of Kansas. Many of these judgeships were recommended in S. 2910, which was reported by the committee in the 2d session of the 83d Congress. Therefore, there is some overlapping between some of the provisions of S. 2910 and the recommendations of the Judicial Conference of the United States. It will be noted at this point that the Department of Justice has concurred in the action of the Judicial Conference of the United States.

The third category of judgeships was also contained in S. 2910 and the facts relating thereto are contained in Senate Report 1312 of the 83d Congress, which is herein set forth as follows:

The third category of judgeships contemplated in the proposed legislation is based upon the theory that the judicial business of the United States has grown to such a point as to require a minimum of two judges in any given State. Those States which now have only one judge are Maine, New Hampshire, Rhode Island, Vermont, and Wyoming. These States each comprise within its territorial limits 1 judicial district so that there is under existing law only 1 Federal district judge within that State. It is the belief of the committee that at the time these judicial districts were formed perhaps the services of one judge were entirely adequate, but in the main, the population of these States has greatly increased, at least to the extent where the volume of business to be filed in the court is far greater than it was years ago. It may be true that the caseload filed and pending in any one of these courts may not be a back-breaking job for the judge now presiding to handle but most certainly the task is not an easy one. More important is the fact that some of the districts adjoining these States are those which have found themselves in dire need of help and assistance. The result, therefore, is that oftentimes the judges in a one-judge State will leave his district to help out in places where that need is pressing. This means that during the absence of the judge there is a judicial district without the services of any judge power whatsoever. If there be need for an emergency writ or any other action by a district judge, the litigants or their attorneys must go to where the judge is presiding or await his return. This committee does not believe that any district in the United States should be without the services of a Federal district judge at all times. Thus, if an additional district judge is provided for these 1-judge States, 3 purposes are apparent and 3 results are accomplished. First, there is reduced likelihood that the particular State in question would in the future find itself in trouble as regards its caseload as has been the case in many of the districts dealt with in previous legislation and in the instant bill. Secondly, such a provision would insure that at all times there will be a district judge available to the people of the State when needed. Thirdly, it will create a pool of judges that can be called to help out in those districts which find themselves in trouble by reason of increased filings and a heavy load of pending cases.

In addition to these three major objectives to be achieved by this bill, there also is considered the matter of disqualification of judges in certain cases. Where there is only one judge in a State and the judge finds himself disqualified or is disqualified by one of the litigants as provided for by law, there must be sent into the district a judge from another district to handle that particular litigation. With the addition of another district judge in a one-judge district, it should readily become apparent that with such a disqualification there is another judge on hand to handle the cases. This results in somewhat of a saving as regards the overall expense of a new judge and also results in a saving of time for the reason that the trial of such a case, by calling in an outside judge, depends a great deal on when the judge is free to come. It will be conceded that this approach and theory is new as regards the alleviation of the backlog of cases but after a study of the situation, the committee is convinced that it is a meritorious way of attempting to handle the situation. It will be noted that in Public Law 294, there were additions made to several one-judge States, notably Idaho, Nevada, New Mexico, North Dakota, South Dakota, and Utah. The committee at that time felt that in providing judges for these States not only would the States involved be insured from finding themselves in trouble in the future, but that the services of any judge could be used where necessary in other districts without depriving the States involved of its judge power. Therefore, these provisions of the bill are made to carry out to the ultimate, and to provide for the remaining one-judge States that relief and that insurance they deserve, with the added feature of enlarging the pool of judges which may be available to trouble-

shoot those districts which are in need. The committee is sincerely of the opinion that these provisions are meritorious and necessary to help in laying a foundation for the sound judicial dispatch of the business of the Federal courts and recommends that these provisions be given the approval of the Senate.

Attached to this report are tables showing the judicial business of Maine, New Hampshire, Rhode Island, Vermont, and Wyoming, and as evidence of the increase in cases pending before those courts, the following is submitted. The total civil cases in the district of Maine in 1941, pending on June 30, 1941, were 69 cases and as of June 30, 1953, there were 373 cases; for New Hampshire, on June 30, 1941, there were pending 44 cases and on the same date in 1953, there were 226 cases pending; for Rhode Island, on June 30, 1941, there were pending 91 cases and on the same date of 1953, the figure of total civil cases pending was 191; for Vermont, on June 30, 1941, there were pending 76 civil cases and for the same date in 1953, there were 119 cases; for Wyoming on June 30, 1941, there were 29 civil cases pending and on the same date in 1953, there were 74 cases.

The tables indicate throughout the years an intermittent rise and fall but always ending in a substantial increase. It is true that the cases commenced per judgeship in the 5 States mentioned are less than the caseload commenced per judgeship throughout the 86 districts of the United States. This does not mean, however, that the average caseload per judge is a proper caseload for a judge to handle. In 1953, cases per judgeship commenced in the 86 districts of the United States was an average of 261. This figure, of course, is not realistic as to what a judge may adequately handle, and the testimony produced prior to the passage of S. 15 indicated that 261 cases per judge is in excess of what may reasonably be handled with efficiency and dispatch.

The committee reiterates its belief that the theory herein expounded is meritorious and again recommends it to the favorable consideration of the Senate.

To return to the other features of this legislation, the Judicial Conference of the United States and the Office of the Director of the Administrative Office of the United States Courts have as always made a very careful study of the conditions of the dockets of the courts going back over a period of years. This study has been most comprehensive and has related to each district and each circuit. In this connection it must be remembered that the most such a study can reveal is the cold data as to the number of cases filed and the number of cases disposed of, the number of cases pending, and related factual and statistical data. As stated in previous reports, these studies conducted cannot possibly take into account various intangible factors which enter into any complete understanding of the overall problem of the load being carried by each Federal judge. The concentration of wealth or large corporate activities may change the picture to a great extent. One large suit may take months of a judge's time whereas many small cases could have been handled over the same period of time. In other districts, there are extremely heavy caseloads of a criminal nature. This is particularly true in States bordering on other countries and having immigration problems. Many other intangible factors, such as illness of judges, judges assigned to other judicial duties, age, physical incapacity, and numerous other factors enter into the forming of the full and complete picture. Therefore, the committee wishes to state that the statistical data attached to this report does not and cannot reveal the entire picture and that in an analysis of this report there must of necessity be kept in mind the intangibles here mentioned.

Between the years 1941 and 1954 the total number of civil cases pending in all the districts of the United States increased from 29,394 to 68,431.

Civil cases filed and terminated during the fiscal years 1941–54, the number of judgeships and the number of cases pending at the end of the year

Fiscal year	Number of judgeships at end of year	Civil cases		
		Commenced	Terminated	Pending at end of year
1941	197	38,477	38,561	29,394
1942	197	38,140	38,352	29,182
1943	199	36,789	36,044	29,927
1944	197	38,499	37,086	31,340
1945	198	60,965	52,300	40,005
1946	200	67,835	61,000	46,840
1947	201	58,956	54,515	51,281
1948	199	46,725	48,791	49,215
1949	200	53,421	48,396	54,240
1950	221	54,622	53,259	55,603
1951	224	51,600	52,119	55,084
1952	224	58,428	53,150	60,362
1953	224	64,001	57,490	66,873
1954	251	59,461	57,903	68,431
Percentage increase 1941 to 1954	27.4	54.5	50.2	132.8

The above table indicates that the volume of the judicial business of the United States is ever increasing and the total number of civil actions has continued to increase, despite the additional judgeships provided in S. 15 of the 83d Congress.

With the exception of the years 1947 and 1948 when the total was affected by a decrease in price control cases there has been a persistent upward trend in the number of civil cases commenced. The number of terminations has increased 50 percent since 1941 but in only 4 years since 1940 has it exceeded the cases commenced. The result has been an increase of 133 percent in the pending caseload in the past 13 years.

The fluctuations in the civil total have been accompanied by a sharp rise in cases between private parties. The number of these cases commenced has almost doubled since 1941 increasing from 21,931 in 1941 to 39,512 in 1954 and the number pending has risen from 18,807 to 45,759, an increase of nearly 150 percent. The increase in the private cases filed since the end of World War II is the most striking development in the trend of the civil business of the courts from 1941 to the present. The private cases commenced, terminated and pending at the end of each year from 1941 to 1954 were as follows:

Private civil cases

Fiscal year	Commenced	Terminated	Pending at end of year
1941	21,931	23,364	18,807
1942	21,067	22,448	17,386
1943	17,717	20,124	14,979
1944	17,604	17,446	15,137
1945	17,855	16,753	16,239
1946	22,141	18,438	19,942
1947	29,122	23,091	25,973
1948	30,344	26,418	29,899
1949	31,386	28,159	33,126
1950	32,193	30,494	34,825
1951	32,176	31,419	35,582
1952	35,548	32,610	38,520
1953	40,120	35,385	43,256
1954	39,512	37,009	45,759
Percentage increase, 1941–54	80.2	58.4	143.3

Since private cases take much more judicial time on the average than Government cases, a serious degree of congestion in some district courts has resulted. This is particularly true for nonjury cases which make up over 60 percent of all civil trials in the district courts. The national median from filing to disposition of these cases which are tried has risen in 10 years from 11.3 months to 15 months. For jury cases the median has increased from 9 months to 11.6 months.

The rise in private cases has resulted from the astonishing expansion in general business, in national income, in employment and in automobile registrations. Gross national product in constant 1939 dollars has risen from $101 billion in 1940 to an estimated $170 billion in 1954, an increase of 70 percent and the estimated national income of $298.9 billion for 1954 is 3⅞ times that of 1940. Total motor vehicle registrations in 1953 were 56 million compared with 32 million in 1940.

Congress has made two substantial increases in the judicial force since 1938, one in 1949 when 6 circuit and 21 district judgeships were added and the other in 1954 when 3 circuit and 27 district judgeships were provided. Even with the latest addition, district judgeships have only increased since 1941 by 27 percent compared with an increase of 55 percent in the total number of civil cases filed annually and an increase of 80 percent in private civil cases. In order to dispose of incoming business, reduce the current backlog and bring the dockets up to date, further additions to the judgepower of the district courts are needed and have been recommended by the Judicial Conference of the United States.

Civil cases filed in 1954 numbered 59,461 and terminations were 57,903 leaving a pending caseload at the end of the year of 68,431. The decrease of 4,540 in cases commenced as compared with 1953 resulted from a cessation in the filing of rent- and price-control cases and large decreases in Nationality Act cases and in promissory note cases in Puerto Rico, partially balanced by a substantial rise in cases based on diversity of citizenship. Since this latter type of case takes substantially more time than Government cases on the average, the workload of the Federal courts has not been reduced and was substantially greater than the available judicial force could cope with. As a result, although pending United States cases were reduced by about 1,000, pending private cases increased by 2,500.

To illustrate the business of the judges of the Federal judicial system, it is to be noted that in 1941 the national average of civil cases commenced per judge was 164, and in 1952 that figure had risen to 236. In 1953 the figure was 261, but, due to additional judgeships, as heretofore mentioned, the number has been reduced to 210. It is true that additional judgeships have reduced this average to some extent, but the committee is convinced that the national average (being the average number of cases filed per judge in the 86 district courts of the United States) is still higher than it should be and has put more cases on each judge than he can properly and efficiently handle. But even with the national average as high as it is and the judges of necessity sacrificing thoroughness for speed, the dockets in many districts are falling further behind and the problem is becoming more and more acute. The committee does not know if there is a number of cases an individual judge may handle, but it is known that the average caseload over the Nation is much too high and only by the addition of these judgeships may this average caseload be lessened.

It is obvious that an increase in judges will require that there be a corresponding increase in the appropriation for the judiciary. Of the total Federal budget, the judiciary appropriation is about one-nineteenth of 1 percent of the total budget. One-nineteenth of 1 percent for 1 of the 3 major branches of the Government is little enough to spend for the welfare of the people of this Nation. It is true that the judgeships provided for in this legislation will increase the expenditure, but it should be apparent that the percentage of increase as against the national budget would hardly be noticeable.

The committee is of the belief that the additional expenses inherent in enactment of a bill of this nature are more than amply justified when it is considered that such enactment will increase the efficiency and dispatch of the business of 1 of the 3 major branches of the Government.

The balance of this report will deal with each of the additional judgeships referred to and the other provisions of S. 1256, with the appendix to this report giving the statistical and memorandums data in reference to these provisions.

The hearings on this legislation encompassed every feature of the bill and, as to the creation of the additional judgeships provided herein, the transcript has been entirely silent as to any filed document or oral presentation in opposition to the recommended judgeships.

In the course of the hearings, the committee heard evidence on the general question of additional judgeships, with the view in mind of determining if there were other means of alleviating the backlog other than by the creation of additional judgeships. This hearing was directed toward such suggestions as the supporting personnel of the courts, the procedures of the Justice Department, vacations of judges, air conditioning of courthouses in hot climates, and allied matters. It was brought out that the Chief Justice of the United States had appointed a committee of judges to review the entire judicial structure with a view to recommendations tending to speed up the dispatch of the business of the court. The committee found some areas in which legislation might be enacted to provide for additional personnel, but, in the last analysis, the present need for additional district judges, in the opinion of the committee, remains, for the reason that a judge, and only a judge, may hear and decide the pending cases. The committee does believe that a review of the judicial structure is necessary in order to bring the entire picture into focus, and it is contemplated that the committee appointed by the Chief Justice of the United States will fully investigate the entire field and make its recommendations thereon.

Circuit Judgeship

UNITED STATES COURT OF APPEALS FOR THE SECOND CIRCUIT

This provision of the bill is recommended by the Judicial Conference of the United States, and would raise the complement of that court from 6 to 7.

As originally enacted, the Judicial Code of 1911 provided for 4 circuit judges for the second circuit (36 Stat. 1131). The number was raised to 5 by the act of February 28, 1929 (45 Stat. 1346), and to 6 by the act of May 31, 1938 (52 Stat. 584). The number of judgeships has remained the same since that time. The jurisdictional area of that circuit covers the States of Connecticut, New York, and

Vermont, which, according to the 1950 census, had a combined population of 72,215,219. Court is held in New York City. From 1941 to 1950 there was a declining trend in the cases filed in this court. In the next 4 years, the number stabilized in the vicinity of 350 cases a year, but during the first half of the current fiscal year, there has been an increase of about 50 percent over the comparable period of the previous fiscal year, resulting in an increase in pending cases from 169 on December 31, 1953, to 287 on the same date a year later.

The number of cases filed and terminated since the fiscal year 1941 and the number pending at the end of each period are shown in appendix 1 of this report. The balance of the statistical data prepared by the Division of Procedural Studies and Statistics of the Administrative Office of the United States Courts, as set forth in appendix 1, bear out the fact that an additional circuit judgeship for the second circuit is warranted.

It is, therefore, recommended that this provision of the legislation be considered favorably.

District Judgeships

DISTRICT OF ALASKA

The Judicial Conference of the United States has repeatedly endorsed this provision, and the committee concurs in that endorsement. The facts relative to the third division of the district of Alaska are set forth in appendix 2 to this report. It will be noted therefrom that the total civil cases pending as of June 30, 1941, were 140, while in the first half of fiscal year 1955, that figure had grown to 1,496. In 1941, as to private civil cases, there were pending, as of June 30, 136 cases. In the first half of 1955 there were pending, as of June 30, 1,442. It would appear from the data submitted relative to the situation of the third division for the district of Alaska that such a caseload is intolerable. The committee, therefore, recommends that this provision of the bill be considered favorably.

DISTRICT OF ARIZONA

This provision of the bill provides for the creation of an additional district judgeship for the district of Arizona. Evidence was taken on this provision of the legislation during the hearings on S. 1256, and the provision appears to the committee to be warranted and desirable. The facts and figures relating to the district of Arizona are contained in appendix 3 of this report. Briefly, the facts indicate that in 1941 there were pending on June 30, 118 civil cases. During the first half of 1955, as of June 30, that figure had risen to 320. As to private civil cases, which take up the greater part of the time of the district courts, as of June 30, 1941, there were pending 68 cases, and as of the first half of 1955, there were 137. The caseload of the district of Arizona per judgeship is less than that shown by the national average, being 108, as opposed to 210. Notwithstanding this fact, the caseload has continued to rise.

Since the second judgeship was made permanent in 1935, the number of civil cases filed annually has increased by 50 percent and the number of criminal cases, including immigration proceedings, has

increased by 500 percent. It is to be noted that Arizona is one of those States which is subject to many court cases dealing with immigration proceedings. Of the 3,168 criminal cases filed in fiscal year 1954, about 87 percent were "wetback" cases involving violations of the immigration laws. It is understood that criminal proceedings take priority in their disposition and, while the records of the courts in Arizona show that the pending caseload of such cases between 1948 and 1955 have only fluctuated slightly in each direction, with 1 or 2 exceptions, that, in order to keep this balance, there had to be a termination of 3,209 criminal cases in 1954. Thus it is apparent that a great portion of the judge's time has been taken up in criminal work. Hence it has been impossible to keep the backlog of civil cases from rising. A review of all of the facts contained in appendix 3 to this report shows the need for an additional district judgeship for the District of Arizona. The committee, therefore, recommends that this provision of the bill be considered favorably.

NORTHERN DISTRICT OF CALIFORNIA

This provision of the bill will create one additional district judgeship for the northern district of California, and the provision is recommended by the Judicial Conference of the United States. This provision of the bill was also approved by this committee in S. 2910 of the 83d Congress.

When this legislation was recommended, in the 2 years, 1952 and 1953, there had been an increase of 50 percent in the number of civil cases filed in the northern district of California. The number of cases filed in 1951 was 1,245. In 1952, 1,448, and in 1953, 1,875. In 1954, 1,591 and in the first half of 1955, 756, so that if the rate continues, the heavy filings are again indicated. The major increase in filings in 1953 is due to an increase of 472 in United States defendant cases. About 400 of such are accounted for by the rising actions asking for a declaration of nationality. These cases in the fiscal year 1953 were, in the main, brought before December 24, 1952, in advance of the effective date of the McCarran Act, which made some changes with respect to this right of action.

In relation to pending private civil cases, as of June 30, 1941, there was pending a total of 237 cases. Over the years, with few exceptions, the caseload has risen, until at the end of the first half of fiscal 1955, the private pending civil cases had risen to 812. Again, as to the total civil caseload, in 1948 the total of pending cases as of June 30 was 1,490. As of the first half of 1955, the pending caseload was 2,442.

It can be said that the districts in the State of California are the center of the evergrowing populance of the ninth circuit, so that there is no indication that the caseloads in the district are going to be lessened. The committee, after a study of this provision, again recommends that the additional district judgeship for the northern district of California be considered favorably, since it is felt that it is necessary and warranted.

The bill also contains a provision creating a new third division in the northern district of California. This provision was in the form of Senate Joint Resolution 158, introduced by Senator Knowland in the 83d Congress, which passed the Senate on August 12, 1954, but upon which no action was taken by the House. The present proposal

is contained in S. 864 of this Congress, also introduced by Senator Knowland. Under the terms of this bill, the counties of Marin, Monterey, San Benito, San Francisco, San Mateo, Santa Clara, and Santa Cruz would make up the southern division, with court to be held at San Francisco. The counties of Alameda and Contra Costa would make up the eastern division, with court to be held at the county seat of Alameda County.

The Judicial Council of the Ninth Circuit and the Judicial Conference of the United States do not favor this proposal.

Hearings were held on the matter on March 4, 1955, at which time it was brought out that the county of Alameda, populationwise, is now larger than San Francisco County, having a population in excess of 1,100,000. San Francisco has a population of 770,000 but with San Mateo County to the south, that area would have about the same population as Alameda County. It was also pointed out at the hearings that transportation across San Francisco Bay is a problem. Due to the fact that there are in excess of 70,000 cars a day over the Bay Bridge and the bulk of them go between 8 and 9 in the morning and 4:30 and 6 in the evening, it creates quite a problem for the litigants in regard to service in the East Bay area. According to the testimony, it takes at least an hour to make the trip of 10 miles.

As has appeared throughout the hearings on the bills before this committee as well as in previous Congresses, the State of California has been for years past, one of the fastest growing States in the Nation. At the present time, in the East Bay area of Alameda and Contra Costa Counties there are 1,000 attorneys practicing, so that the field for judicial business in this area is considerable. As stated before, traditionally the San Francisco-Oakland Bay area has been the hub of activities of the Western States. There are over 30 Federal departments and agencies which have major offices in Alameda County. The percentage of Federal litigation estimated to have arisen in Alameda and Contra Costa Counties is 33 to 50 percent of the civil and criminal cases handled by the presently constituted southern division. As pointed out above, the time and expense involved in traveling from these 2 areas to San Francisco in connection with cases originating in these 2 counties is considerable.

At the hearings on this legislation it was indicated that this provision of the bill does not require construction of new judicial court facilities. The Judicial Council of the 9th Circuit, in reference to House Joint Resolutions 515 and 516 of the 83d Congress, which were companion measures to Senate Joint Resolution 158 of the 83d Congress, indicated that Congress would be compelled to appropriate at least a million dollars to supply such facilities for the proposed eastern division, if in a proper new structure, and not less than $400,000 if by removing the present occupants of the post-office building and paying very large rentals for their offices elsewhere. The committee has reviewed the evidence in this respect and, because of the peculiar situation that exists in this area, has concluded that there is a need for a division of the court in Alameda and Contra Costa Counties. The committee is interested in service to the litigants of the Federal courts and feels that if this rapidly growing portion of the northern district of California can be served by the creation of such a division, then legislation to accomplish such purpose should be enacted. The committee reaffirms its recommendation contained in the report on

Senate Joint Resolution 158 of the 83d Congress and recommends that this provision of the bill be considered favorably.

A summary of the business of the northern district of California, together with statistical tables, are to be found in appendix 4 of this report.

NEW DISTRICT CREATED BY A REDISTRICTING OF THE SOUTHERN DISTRICT OF CALIFORNIA

This proposed provision of the bill is contained in S. 927, introduced by Senator Kuchel, for himself and Senator Knowland. Hearings were held on this matter before a subcommittee of the Committee on the Judiciary on March 4, 1955. The proposal is not approved by the Judicial Council of the Ninth Circuit nor by the Administrative Office of the United States Courts, but is supported by the State Bar Association of the State of California; the San Diego County Bar Association; the Republican Woman's Club; the Democratic Central Committee; the Republican Central Committee of San Diego; the Democratic Men's Club, and the State Republicans' Young Republicans. In addition to the foregoing, it is supported by the First District Department of California; Veterans of Foreign Wars of the United States, and the Republican Woman's Club of San Diego.

San Diego County and Imperial County are a portion of the rapidly growing southern district of California. San Diego, being just north of the border, is subject to large amounts of immigration cases.

For a period of 15 years, California has been an area of tremendous population growth and during the 10-year period from 1940 to 1950 alone the population grew from 5 million to over 10 million. At the present time this figure has swelled to over 13 million. The future growth of the State cannot be forecast with any degree of accuracy. In Imperial County the population is approaching 100,000. In San Diego during the 10-year period of 1940–50 there was a 92-percent increase in population and, if this growth continues at the present rate, within a few years there will be a million inhabitants within its county lines.

At present there are 11 judges in the southern district of California, and the effect of this provision of the bill would be to reallocate those judges. California now consists of a northern and a southern district. Passage of this provision of the bill would divide the State into three districts, northern, central, and southern. Of the 11 judges now of the southern district of California, 9 would become judges of the central district and 2 would become judges of the southern district, so that there is no additional judge-power inherent in this bill. It is understood that the civil calendar in the southern division (San Diego) is assigned to each of the judges of the district 3 months in rotation in order to take care of the work in that division. While it has been said that the rotation method does not work satisfactorily and does not accomplish the purpose of adequate service to the San Diego area, the committee desires to make it clear that the assignment of judges in rotation, as has been the custom in the southern district of California, is perfectly proper under existing law and probably as feasible a way to expedite the judicial processes as can be found, under the circumstances. However, in view of the tremendous growth in the two large populous areas of the southern district of California, to-

wit, Los Angeles and San Diego, the committee believes that the practical way to solve the problems that have arisen and will continue to arise if the population continues to increase in the future, is to create a third district in the State of California.

The evidence indicates that immigration is a major problem in the San Diego area. The regional FBI office is located there, with over 40 agents for the southern counties. The 11th Naval District is in San Diego, so that it can be seen that the judicial business of this area is substantial. The committee has reviewed all of the evidence submitted and believes that eventually the San Diego area and Imperial County will have to be dealt with on a permanent basis.

This section of the bill so provides, and it is the opinion of the committee that, under all of the circumstances and in the light of the evidence presented, the division of the southern district should be consummated. It is, therefore, recommended that this provision of the bill be considered favorably.

DISTRICT OF COLORADO

This provision of the bill relates to the creation of an additional district judgeship for the district of Colorado, and is recommended by the Judicial Conference of the United States.

The State of Colorado had a single district judgeship from its creation until an additional position was authorized by the act of February 10, 1954 (Public Law 294, 83d Cong.). The court for this district is held in Denver. The facts indicate that there has been a rapid increase in population in the State of Colorado. In 1940 the population was 1,123,000 and in 1954 the figure had risen to 1,456,000. This increase has brought with it expansion in the economy of the State and a marked increase in the judicial business. As of June 30, 1941, there were 99 civil cases pending. In 1954 there was a total of 505 and, even with the addition of the added judgeship, in the first half of 1955 there were pending 471 civil cases.

During the first 8 months of fiscal year 1955, there were 30 civil trials in the district, excluding land condemnation, forfeiture, and habeas corpus proceedings, and the median time from issue to trial of these cases was 20.9 months. Half of these cases involved personal injury or damage to property. Of the 30 cases, 17 of them had intervals from issue to trial ranging from a minimum of 18.1 months to a maximum of 26.4 months. This gives a picture of the business of the district and indicates that the average litigant who goes to trial in a civil case must now wait from a year and a half to 2 years from the time answer is filed before getting to trial. This is the worst docket condition which the district has faced and indicates the necessity for relief. Appendix 5 of this report deals with the facts relative to this district and shows that the chief judge has brought in a steady stream of visiting judges from the circuit to sit in Colorado. It is safe to say that during the past 2 years, the number of days spent by visiting judges in the district of Colorado has exceeded that in any other district in the United States, except in metropolitan courts with many more judges. While the use of visiting judges is a highly commendable and valuable method of employing available judgepower, it is primarily a temporary expediency for use in meeting an emergency. The judgepower in a particular district should be sufficient to meet the normal needs of the district.

If relief is not given to this district the situation will worsen until there will be a real denial of justice to the litigants residing there. The committee, therefore, recommends that this provision of the bill, being necessary and warranted, be considered favorably.

A detailed study of the judicial business and supporting tables are contained in appendix 5 of this report.

DISTRICT OF CONNECTICUT

This provision of the bill will create an additional district judgeship for the district of Connecticut, and is recommended by the Judicial Conference of the United States.

A second judgeship was created in Connecticut in 1927 and there has been no addition to the judgepower of that State since then. Court is regularly held at Hartford and New Haven. This district, again, has a tremendous increase in pending caseloads. As of June 30, 1941, there were pending 229 cases and as of December 31, 1954, that figure had risen to 789. The greatest increase in cases filed has occurred since 1950, and the pending caseload has more than doubled since that time. The judicial business of the district of Connecticut indicates that the principal increase has been in private cases, which is the type of case that takes the greatest amount of the court's time, but there has also been a substantial rise in criminal cases since 1950. It is estimated by the Administrative Office of the United States Courts that, on the whole, the average private case takes about threefold as much time of the judge as do United States cases. The result is that, while in 1941 the number of private cases filed were only 20 percent of the civil total and cases in which the United States was a party were 80 percent, in 1954 the proportions were reversed and private cases were 80 percent and Government cases were 20 percent. Chief Judge J. Joseph Smith of Connecticut attributes this change to the increase in population of the district, the congestion in State courts, and the steady rise in motor-vehicle negligence cases. Appendix 6 of this report sets forth in full the justification for this legislation, and the committee recommends this provision of the bill to the favorable consideration of the Senate.

NORTHERN DISTRICT OF ILLINOIS

This provision of the bill relates to the creation of two additional district judgeships for the northern district of Illinois, and is sponsored by Senator Dirksen. At the time S. 1256 was being considered by the subcommittee, attention was called to the fact that a study had been made of the northern district of Illinois and that in the report of the Committee on Court Administration it was recommended that 1 additional permanent judgeship for the northern district of Illinois and 1 additional temporary judgship be granted for that district. The opinion was expressed at that time that temporary judgeships are not thoroughly satisfactory and that the creation of judgeships should be on a permanent basis if the business of the courts is to be handled expeditiously.

The volume of civil business commenced in this district is heavy, because Chicago is the economic and industrial capital of the Middle West as well as the second most populous city in the United States.

The district court receives many difficult and unusual cases. During 6 of the last 10 fiscal years approximately 2,000 civil cases were filed annually. In the other 4 years of this period the filings were even higher—in 1946 over 2,600, in 1949 over 2,200, and in 1952 and 1953, 2,567 and 2,946, respectively.

In 1951 the complement of judges within the northern district of Illinois was increased to eight in order to take care of the backlog of cases. The national average per judge in 1951 was 204, while the caseload per judge in the northern district of Illinois in that year, even with the increase in judgepower, was 249. In 1955 the national average caseload for civil cases was 212 per judge in the 86 districts, and the average per judge in the northern district of Illinois was 261. Private civil cases, which consumed the greater amount of the court's time, on the national average in 1955 were 126 filings, while in the northern district of Illinois they numbered 203 per judge. It is apparent, because of the heavy filings, that the additional judges have not been able to reduce substantially the workload of this district, even though there is a reduction in the cases pending. It is the belief of the committee that the judgeships recommended are needed to bring the northern district of Illinois to an efficient judicial district and to further guard against an increased backlog of cases.

The Statistics Committee and the Committee on Court Administration of the Judicial Conference of the United States, as regards this district, recommends 2 judgeships for the northern district of Illinois, with 1 of such judgeships being of a temporary nature. The Committee, however, after a study of the facts in relation to this district, believes that the 2 judgeships should be of a permanent nature and, therefore, recommends that the provision for 2 additional district judgeships for the northern district of Illinois be considered favorably. It might be noted at this point that at a hearing before the Subcommittee on Improvements in Judicial Machinery of the Committee on the Judiciary the Attorney General of the United States approved expressly the provision for two additional district judgeships for the northern district of Illinois.

Appendix 24 hereto contains a comprehensive statement and statistical data as to this district.

AUTHORIZING HOLDING COURT AT ALTON, ILL.

This section of the bill provides for the holding of terms of court for the southern division of the southern district of Illinois at the city of Alton. Accordingly, it amends section 93 (b) (2) of title 28 of the United States Code. The city of Alton, through its city council and with the approval of the city court, passed a resolution tendering to the United States the use of its courtroom facilities at no cost to the Federal Government. The bar associations of Alton and the tri-cities—Granite City, Madison, and Venice, as well as the attorneys of Edwardsville and Collinsville, expressed approval of this provision, particularly since 56 percent of all bankrupt cases filed in the United States district court at Springfield during the last 5 years arose in Madison County. Approximately 27 percent of all civil litigation in the United States district court for the southern division arose in Madison County. This provision also has the endorsement of the bar associations of Calhoun, Jersey, Greene, and Macoupin Counties, because of the convenience to the attorneys and

litigants in this area. Madison County being the third largest county in the State of Illinois, and the surrounding territory being heavily populated, recommends this provision to the approval of the Senate.

NORTHERN AND SOUTHERN DISTRICTS OF IOWA

This portion of section 2 of the bill will provide a roving judge for the northern and southern districts of Iowa, and has been twice recommended and endorsed by the Judicial Conference of the United States. This provision was reported favorably by the Committee on the Judiciary in S. 2910 of the 83d Congress. It will be noted again that this is a provision for a roving judge to serve in both the districts of Iowa and takes care of the situation in Iowa, for the reason that neither of the districts is in such dire distress at this time as to warrant a judge for just one of the districts alone. The southern district of Iowa, however, is rapidly approaching a condition that would warrant an additional district judge. As of June 30, 1941, in the northern district of Iowa there were pending 21 civil cases, and as of June 30, 1953, that figure had tripled to 68. In 1954 the figure had risen to 72 and in the first half of 1955 it was at 69. As to private civil cases in the northern district of Iowa on June 30, 1941, the cases numbered 13, while in 1953 the number on the corresponding date was 43 and in the first half of 1955, the number was 34.

In the southern district of Iowa as of June 30, 1941, there were 84 civil cases pending and as of the same date in 1953 the figure was 196. In 1954 it was 177, and for the first half of 1955 the number was 156.

The facts presented to the committee clearly indicate that before too long the southern district of Iowa will be in difficulty, so that it is again the opinion of the committee that the recommendation of the Judicial Conference of the United States to provide a roving judge for both of the districts of Iowa is sound and proper in order to maintain efficiency and dispatch in both of these districts. The committee, therefore, recommends this provision of S. 1256 for favorable consideration.

A detailed resumé of the business, supported by statistical tables, is contained in appendix 7 to this report.

DISTRICT OF KANSAS

This provision of S. 1256 would increase the judgeships in the district of Kansas from 2 to 3, and the provision is recommended by the Judicial Conference of the United States. This provision of the bill was also approved by the Committee on the Judiciary in its report on S. 2910.

From the statistics, it appears that the caseload per judge filed in this district in 1953 was 331, compared with the national average of 261. In 1954 there were 396 cases commenced per judgeship, as opposed to the national average of 210, showing that the filings in this district are ever on the increase. In 1948, as of June 30, there were only 116 private civil cases pending, but on the same date in 1953 this figure had risen to 308 and as of the same date in 1954 the figure had risen to 389. A review of the tables contained in appendix 8 of this report reveals that the constant increase in the pending figures at the

end of the year show an increasing tendency toward docket congestion. The increase in the civil business of the district in the fiscal year 1954, as compared with the previous year, is a warning that the situation should be carefully watched if the dockets are to be kept current.

From a study of the facts submitted by the Judicial Conference of the United States, the committee concurs in the recommendation of the Conference and again recommends favorable consideration of this provision of S. 1256. A detailed summary and statistical review of the judicial situation in the district of Kansas is contained in appendix 8 of this report.

EASTERN DISTRICT OF LOUISIANA AND EASTERN AND WESTERN DISTRICTS OF LOUISIANA

This provision of the bill as it relates to the eastern district of Louisiana will increase the judgeships of that district from 2 to 4. Provision is also made for the creation of a roving judge for the eastern and western districts of Louisiana to serve both districts. These provisions of the bill are supported by the Statistics Committee and the Committee on Court Administration of the Judicial Conference of the United States. From the attached statements it is shown that the increase in business over the past decade has been principally in private civil litigation and, more particularly, in admiralty in diversity of citizenship cases. The pending caseload per judgeship of total civil cases and private civil cases is the largest nationally, and exceeds even the pending caseloads per judgeship in the heavily laden district of the southern district of New York. It is believed that a study of the material contained in appendix 9 hereto amply supports those provisions of the legislation. It is, therefore, recommended that these provisions of the bill be considered favorably.

In connection with the creation of an additional district judgeship for the eastern district of Louisiana, there have come to the committee recommendations that one of the district judges be a resident of Baton Rouge. This comes about by the recommendation of the Baton Rouge Bar Association. It is contended that, as matters now stand, both of the Federal judges are located in the city of New Orleans and hold court continuously in that city. The Baton Rouge division of the eastern district of Louisiana is only allotted two terms of court per year. The Baton Rouge division is located in the Parish of East Baton Rouge, which has now increased to a population of over 210,000 people and in which there are approximately 300 practicing attorneys. According to the report of the bar association, at the last term of court held in the Baton Rouge division there were approximately 50 cases on the trial docket to be tried in the period of 5 weeks. It is stated that the tremendous growth in the population of this area, together with the creation of a new port in the city of Baton Rouge, justifies the request that a judgeship not only be created but that the judge have his primary place of duty in the city of Baton Rouge.

The committee under the facts agrees with the report of the Baton Rouge Bar Association and recommends that a provision requiring that one of the judges for the eastern district of Louisiana be a resident of Baton Rouge be favorably considered by the Senate.

DISTRICTS OF MAINE, NEW HAMPSHIRE, RHODE ISLAND, VERMONT, AND WYOMING

The provisions relative to these districts have been discussed earlier in this report, and were recommended favorably to the Senate in S. 2910 by the Committee on the Judiciary. At the hearings on S. 1256 it was indicated in the testimony of Chief Judge John Biggs, Jr., of the Circuit Court of Appeals for the Third Circuit that in his opinion such provisions were meritorious. In addition thereto, communications have been received from Senators Styles Bridges and Norris Cotton of New Hampshire and Senator George D. Aiken of Vermont in support of these provisions of the legislation. Copies of their communications are contained in appendix 10 of this report. Statistical information relative to the districts involved are also included in appendix 10.

The committee, after a review of all of the circumstances, reaffirms its recommendation contained in S. 2910 of the 83d Congress and again recommends that the additional district judgeships for the districts of Maine, New Hampshire, Rhode Island, Vermont, and Wyoming be considered favorably.

DISTRICT OF MARYLAND

This provision of the bill would create an additional judgeship for the district of Maryland, raising the number of district judges therein from 2 to 3. The provision was previously recommended by the Committee on the Judiciary in S. 2910 of the 83d Congress.

The Judicial Conference of the United States, in a recent communication to the committee, recommends the creation of this additional judgeship.

Maryland has a population of over 2 million, half of which reside in the Baltimore area. The district of Maryland has been extremely fortunate in having two very efficient and hard working jurists as its judges for this district and, as a result thereof, thay have managed to keep the district of Maryland fairly current in its work. However, it has only been by hard work that such has been the case. Judge Chestnut, now almost 82 years old, who retired on July 31, 1953, has been holding court regularly and the district has thus had the services of three judges since the appointment of Judge Thomsen a year ago. However, Judge Coleman, the senior judge, has announced his resignation as of June 1, 1955. Court is held at Baltimore and the term is practically continuous except during the hot summer months. The transcript of the testimony is replete with recommendations from the bar associations of Maryland endorsing an additional district judgeship for the district of Maryland.

The committee is of the opinion that to require more work than is reasonably possible for judges to perform is not a sound practice and that the population growth and the increase of case filings in this district indicate the necessity for an additional district judge for this district. Not to recognize the fact at this time is to court danger and there is no result to be had from not heeding the warning signal, other than delay in judicial dispatch and denial of justice, as has been the case in so many districts in the past.

The committee, therefore, reaffirms its previous recommendation that this provision of the bill be considered favorably.

A memorandum and statistics dealing with the district of Maryland are to be found in appendix 11 of this report.

DISTRICT OF MASSACHUSETTS

This provision of the bill will increase the district judgeships for the district of Massachusetts from 4 to 5, and is recommended by the Statistics Committee and the Committee on Court Administration of the Judicial Conference of the United States. The report of the Statistics Committee to the Committee on Court Administration indicates that the backlog of civil cases stands at 1,907, including 1,300 private civil cases. With the additional judge in 1954, the court has been able to check the growth of arrearages but has not been able to reduce the backlog. The incoming civil caseload is also heavy and one judge is needed to help the court to become current. A review of the statistics as regards the district of Massachusetts is contained in appendix 25 hereto, and amply shows the justification for this additional judgeship.

EASTERN DISTRICT OF MICHIGAN

This provision of the bill is recommended by the Judicial Conference of the United States. The act of February 10, 1954 (68 Stat. 8) provided for a sixth judgeship for the eastern district of Michigan and reduced the size of the district by transferring five counties in the State from the jurisdiction of the eastern district to that of the western district, and an additional judgeship was also provided for the western district.

The number of pending cases showed large increase in 1950, and it has not been possible to reduce it materially since that time. Meanwhile, the time for reaching trial and for disposition of cases tried has been increasing. In 1950 the median time from filing to disposition in Michigan was 11.7 months, while the national average was 11.2 months. In 1954 that time had increased to 16.9 months, as opposed to 13.5 months for the national average.

In 1948 the total civil cases pending as of June 30 numbered 719. In 1954 as of the same date, they numbered 1,029, and for the first half of 1955 they numbered 1,076.

As to private civil cases, the pending caseload has fluctuated but with an ever-increasing tendency to a congested docket. The low point for 1941 was 210 cases pending as of June 30, while the highest was recorded in the first half of 1955 with 715 civil cases.

The committee, after a review of the judicial business of this district together with the statistics contained in appendix 12 hereto, is convinced that this provision of the bill is meritorious and, therefore, recommends it to the favorable consideration of the Senate.

SOUTHERN DISTRICT OF MISSISSIPPI

This provision of the bill would create an additional district judgeship for the southern district of Mississippi, and has been repeatedly recommended by the Judicial Conference of the United States. It was contained in S. 2698 introduced by Senator Eastland in the 83d Congress, which was reported favorably to the Senate on February 15, 1954, and passed the Senate on March 1, 1954. As disclosed by

Senate Report 984 on S. 2698, the provision relating to the southern district of Mississippi is well justified. No action was taken by the House and this provision of the bill was again recommended by the Committee on the Judiciary in S. 2910 of the 83d Congress. A review of the report on S. 2910 (S. Rept. No. 1312) and Senate Report 984 shows ample justification for this legislation.

In each of the last 11 fiscal years, the civil caseload for the southern district of Mississippi has been well above the national average. For the entire period it was about 75 percent greater. In 1954 the 579 civil cases commenced in the southern district of Mississippi gave that district the highest caseload per judge in the Nation. The private civil caseload of 242 was the sixth largest. An indication that this trend is continuing and even increasing is the fact that 250 civil cases were commenced in the district during the first half of the fiscal year 1955, as compared with 225 cases during the same period of the previous fiscal year. Private civil cases in the first half of the fiscal year 1955 were 164, compared with 112 for the same period in 1954.

In addition to these civil cases, the judge for the southern district of Mississippi is burdened with a heavy load of criminal work. If criminal immigration cases, which are confined almost entirely to the five districts on the Mexican border, are eliminated, the 367 criminal cases commenced in this district in 1954 are 3½ times the national average of 103 criminal cases per judgeship, without immigration. The criminal caseload per judge in this district in 1954 was exceeded only by that in the three districts in the State of North Carolina. Due to the preference given criminal cases, as is the custom, the criminal dockets in the southern district of Mississippi are, generally speaking, in good condition.

The need for an additional district judgeship for this district is apparent, and a review of the judicial business and statistics contained in appendix 13 support this view.

The committee reaffirms its previous recommendations and again recommends that this provision of the bill be considered favorably.

EASTERN DISTRICT OF NEW YORK

This provision of the bill will create an additional district judgeship for the eastern district of New York, and is recommended by the Judicial Conference of the United States. It would appear from the hearings and the available data that there has been no addition to the judicial force in the eastern district of New York since 1935, when the sixth judge was added (49 Stat. 945). The business of this court has not increased materially since the prewar period, as shown by the figures for the years 1941–54 of table 1, appendix 14. There was some decrease in the number of civil cases filed during the war, which was followed in 1945 and the 2 succeeding years by a flood of OPA cases. Since 1948 the civil cases commenced annually have decreased by about 15 percent, while the number of private civil cases begun has fluctuated within a small range. Following the war, the number of pending civil cases increased rapidly to over 2,219 in 1947, where it remained for about 3 years, and in 1951 increased to 2,400. There has been only a small increase since that time. However, the condition of the civil calendar has deteriorated very decidedly since the war. For the term ending December 1946, there was a total of 303 civil cases, and that number steadily increased until at the end of the

term December 1953 there were 1,520. In the fiscal year 1948 the median time in months from issue to trial was 9.4. By 1954 that time had increased to 34.2 months. In 1948 from the date of filing to disposition the median time was 17.3 months. In 1954 it was 39.5 months.

It is apparent that these figures indicate practically a denial of justice. A review of appendix 14 relating to the eastern district of New York clearly indicates the need for an additional district judge for this district, and the committee so recommends.

SOUTHERN DISTRICT OF NEW YORK

This provision of S. 1256 will create 3 additional district judges for the southern district of New York, and is recommended by the Judicial Conference of the United States. The southern district of New York is probably the sorest spot of the Federal judicial system, in spite of the addition of 4 judgeships in 1949 and 2 in 1954. It has the most congested docket of any district court. The delay between calendaring and trial in personal injury jury cases, which are about half the total on the civil calendars, is so great as to actually amount to a denial of justice in some cases. The tremendous caseload of pending civil cases on December 31, 1954, was 11,027, almost a sixth of all civil cases pending in all of the 94 United States district courts, which have a total of 251 district judgeships. This mass of pending cases was largely built up from the end of World War II to the end of 1948, since which time it has been possible only to hold it even. However, cases on the civil calendar continued to grow in number until the end of 1951. Even with the total of 18 judges on this court, the average caseload per judge is 267 as against a national average of 210. Of private civil cases, the average caseload per judge is 205, as opposed to the national average of 127. Appendix 15 hereto contains a complete review of the situation in the southern district of New York and a study of those facts and figures indicates that there is no solution known to the situation at the present time except to provide the southern district of New York with adequate judgepower, to attempt to bring its caseload to somewhat a semblance of normality. The committee is disturbed about the situation, and recommends that the provision creating three additional district judgeships for the southern district of New York be considered favorably.

DISTRICT OF NORTH DAKOTA

Section 5 of the bill provides for the division of the State of North Dakota into two districts, comprising two divisions each. This provision of the bill was recommended favorably by the Committee on the Judiciary in its report on S. 2910 of the 83d Congress.

The eastern district will have two divisions, the northeastern division and the southeastern division.

Places of holding court in the northeastern division are designated as Devils Lake and Grand Forks and in the southeastern division the places for holding court are designated as Fargo and Jamestown.

The western district is comprised of two divisions and the places of holding court in the northwest division are designated as Minot and Williston and in the southwestern division, the places of holding court are designated as Bismarck and Dickinson.

The provision of the bill recommends the above because of the large increase in litigation in the district of North Dakota, by reason of governmental activities, such as the Garrison Dam, and also the discovery of oil in that State.

By Public Law 294, 83d Congress, the State of North Dakota was granted an additional district judge so that its complement of judgepower at the present is two. It was found that the business of the State of North Dakota amply justified that increase and due to very large distances the judges must travel, it seems sound to divide the district of North Dakota into two districts so that an equitable distribution of the work may be given to judges provided.

The committee reaffirms its recommendation contained in S. 2910 of the 83d Congress and again recommends this provision of the bill to the favorable consideration of the Senate.

A resolution transmitted to Hon. William Langer by Hon. A. T. Hackenberg, secretary-treasurer of the Williams County Bar Association, Williston, N. Dak., is set forth below, as follows:

RESOLUTION ADOPTED BY THE WILLIAMS COUNTY BAR ASSOCIATION AT REGULAR MEETING HELD JANUARY 7, 1956

Whereas it appears to the members of the Williams County Bar Association that the establishment of a second Federal judiciary district in and for the State of North Dakota is urgently needed because of the backlog of courtwork and the great increase in the normal amount of Federal courtwork attributable to business originating in the western portion of the State of North Dakota because of increased mineral activity, industrial development, and the Garrison and Oahe Dam projects with the attendant condemnation work: Now, therefore, be it

Resolved, That the Williams County Bar Association does hereby urge the establishment of a second Federal judiciary district for the State of North Dakota; and further

Resolved, That copies of this resolution be forwarded to the North Dakota congressional delegation from North Dakota, and to the Federal judges of North Dakota.

WILLIAMS COUNTY BAR ASSOCIATION,
By: A. T. HACKENBERG,
Secretary-Treasurer,
Williston, N. Dak.

EASTERN, MIDDLE, AND WESTERN DISTRICTS OF NORTH CAROLINA

This provision of the bill is recommended by the Judicial Conference of the United States and would provide for a roving judge for the three districts of North Carolina. Presently there is now 1 judge in each of the 3 districts, and a very considerable expense has occurred in the civil business of the United States district courts in that State since 1951, when a proposal for an additional judgeship in North Carolina was being advocated by the late Senator Willis Smith. The report of the Judicial Conference of the Fourth Circuit indicates that on June 30, 1954, the proposal for an additional judge to serve in all three districts was unanimously adopted and subsequently the same recommendation was approved by the Judicial Conference of the United States at its meeting in September 1954.

While the civil caseload per judge for the State in 1954 was one-third above the national average, the number of criminal cases was five times the national average, if immigration cases are excluded. Criminal cases take much less time than civil cases, as a rule, but the criminal load in this State is a heavy burden. In 1954 the western district, having the lightest caseload of the 3, with 406 criminal cases filed, had a heavier criminal caseload per judge than any other dis-

trict court outside of North Carolina, if immigration cases are not counted.

A roving judge for the three districts of North Carolina appears amply warranted, and a study of the judicial business of these districts, together with the statistical tables appearing in appendix 16 of this report, support that view.

NORTHERN DISTRICT OF OHIO

This provision of the bill was recommended by the Judicial Conference of the United States and was approved by the Committee on the Judiciary in S. 2910 of the 83d Congress. In S. 15 of the 83d Congress 2 judgeships were recommended for this district but only 1 was provided for when S. 15 was finally enacted into law.

The situation as regards the northern district of Ohio has not changed, and the committee adheres to its former recommendation, as does the Judicial Conference of the United States. While the number of judgeships in this district in the last 14 years has been increased by only 1, from 4 to 5, the civil caseload has almost doubled, from 661 in 1941 to an annual average of 1,191 for the last 3 fiscal years. The number of criminal cases has remained about the same, 347 in 1954, as compared with 366 in 1941.

As in every provision in this bill, the caseload of incoming cases does not in itself present a complete picture. In recent years there has been a heavy load of Government and private antitrust litigation and a larger than average amount of patent work. These and other types of private civil cases require a greater than average amount of judicial time for disposition and in the last 14 fiscal years the private civil caseload in the northern district of Ohio has equalled and in some years has greatly exceeded the national average. As a result, there are arrearages on the dockets and congestion has resulted. A reading of appendix 17 hereto attached, relating to the northern district of Ohio, clearly indicates the need for an additional district judge in this district, and the committee so recommends.

EASTERN DISTRICT OF PENNSYLVANIA

This provision of the proposed legislation would increase the judgeships for the eastern district of Pennsylvania from 8 to 10. One of the additional judgeships was contained in S. 15 of the 83d Congress as it was reported from the committee and passed by the Senate. However, such provision was not contained in Public Law 294, 83d Congress, for the reason that the creation of two additional judgeships for this district was not agreed to in the conference on S. 15. Again, this provision was contained in S. 2910 of the 83d Congress when it was reported by the committee to the Senate. The two additional district judgeships now provided for bear the recommendation of the Judicial Conference of the United States. The committee now reaffirms its action on the previous occasions, in the belief that the same reasons now exist for the additional judgeships as were found at hand when this provision was recommended and passed by the Senate in S. 15.

In 1952, as of June 30, there were pending before that court 3,141 civil cases. In 1953 this caseload of pending cases had risen to 3,568, and on the same date in 1954 the pending caseload was 4,903. It appears to the committee that the situation in the eastern district of Pennsylvania clearly calls for this additional judgeship, and the com-

mittee concurs in the recommendation of the Judicial Conference of the United States that such judgeship be provided. The judicial business and statistics relating to the eastern district of Pennsylvania will be found in appendix 18 of this report.

DISTRICT OF PUERTO RICO

This provision of the bill will create an additional district judgeship for the district of Puerto Rico. It was contained in S. 15 of the 83d Congress as it passed the Senate, but was not contained in S. 15 as it became Public Law 294. Again, in S. 2910, the committee recommended an additional district judgeship for the district of Puerto Rico. Of the cases commenced, the figure has been reduced from an all-time high in 1953 of 1,592 to 427 in 1954. The high number in 1953 was due to the type of case that is easily disposed of. However, there still remains the average civil case, which takes the time of the court. Again, it will be noted that this is a one-judge district, and in 1954 the caseload of that judge and the total civil cases was 427, as opposed to the national average of 210. As to private civil cases, which take the greater part of the time of a court, there were 290 cases commenced, as opposed to the national average of 127.

The committee is of the opinion that the situation is such that the district of Puerto Rico merits an additional district judge and it is, therefore, recommended that this provision of the bill be considered favorably. Statistical data relative to the district of Puerto Rico is contained in appendix 19 of this report.

EASTERN AND WESTERN DISTRICTS OF SOUTH CAROLINA

This provision of the bill would increase from 1 to 2 the number of roving judges for the eastern and western districts of South Carolina, and is also the subject of a bill (S. 3409), introduced by Senator Johnston of South Carolina.

At the present time, the eastern district and the western district each has 1 full-time judgeship and an additional 1 in the form of a roving judgeship for the entire State. Because the caseload has been heavier in the eastern district than in the western district for a number of years, the roving judge has spent his entire time in the former district. For a number of years, the eastern district also has received assistance from the judge of the western district of South Carolina, where the caseload has not been too heavy. The roving judge, however, has held court regularly in the western district and it has been possible to keep the docket relatively current in this district.

The statistical data furnished the committee reveals that prior to 1952, the civil load in the eastern district was relatively light. Beginning with 1952, however, the caseload per judgeship approached the national average; in 1953 and 1954 it exceeded it, and in 1955 was almost 70 percent greater. This increase in the caseload, moreover, was almost entirely confined to private civil cases, thereby further increasing the actual burden being placed on the judges by the increases. In 1955, 709 civil cases were commenced, 403 in the Charleston-Florence-Orangeburg divisions and 306 in the Columbia-Aiken divisions. The number of private civil cases were 224 and 208, respectively, a considerably larger figure than the average of 126 for all judgeships in the 86 districts.

This tremendous increase in filings has of course skyrocketed the pending caseload. On June 30, 1951, there were only 139 civil cases pending, 50 of which were in the Charleston-Florence-Orangeburg division and 89 in the Columbia-Aiken divisions. Four years later, the pending caseload had risen to 610 cases, of which 295 were in the Charlestown-Florence-Orangeburg divisions and 315 in the Columbia-Aiken divisions.

One may well inquire for the reason for the immense increase in cases commenced. And, except for an inconsequential increase in Government negotiable instrument suits, the answer lies in a phenomenal rise in diversity of citizenship cases. In the fiscal year 1948 there were 74 diversity of citizenship cases commenced in the district, and in 1955 there were 393 such cases filed. This is an increase of over 430 percent in 7 years in this 1 jurisdictional category.

The diversity of citizenship increase is primarily the result of personal-injury suits arising out of motor-vehicle accidents. In 1948 there were 30 of these motor-vehicle tort suits commenced, and in 1955 the number had risen to 208, an increase of almost 600 percent in 7 years. With such a burden of private cases as are flooding the dockets of this district, it is no wonder that the pending caseload is ascending rapidly. The eastern district at the present time has a private caseload per judgeship that is equaled or exceeded by only eight other districts, in many of which the seriousness of the docket congestion is recognized and additional judgeships are being recommended.

For the past few years the number of civil trials commenced per judgeship has been slightly higher than the national average. For criminal trials commenced per judgeship, the eastern district has been on a par with the national average. Because the docket congestion is of such recent origin, long delays in reaching trial have not yet occurred. In 1955 the median time interval from filing to disposition in cases terminated in which a trial was begun was 12.2 months. This median compares favorably with the median for the 86 districts of 14.6 months. The median time interval from issue to trial was 8.7 months, slightly below the national median of 9.1 months.

In order to keep the western district in the relatively current status it is now in and, at the same time, relieve the congestion that exists in the eastern district, it is recommended that this provision of the bill be considered favorably.

A review of the judicial business and statistics contained in appendix 20 of this report amply supports the view that the need for this additional district judgeship is apparent.

EASTERN DISTRICT OF TENNESSEE

This provision of the bill has been approved by the Statistics Committee and the Committee on Court Administration of the Judicial Conference of the United States, and would increase from 2 to 3 the number of judgeships for this district. The report of the Administrative Office of the United States Courts for the fiscal year 1955 shows that the 2 judges are carrying a caseload of civil cases per judge of 334 cases, as compared to the caseload per district judge in the sixth circuit of 185, and the national average of 212 for the 86 districts represents an increase of 67 percent over the caseload of 199 in 1946. The granting of this provision of the bill would lessen the caseload per judge, which is still higher than the national average.

The committee has carefully studied this matter and is of the belief that, in order to reduce the backlog of cases in this district as well as to guard against a suture congestion which would seriously impair the administration of justice, favorable consideration should be accorded this provision and it is, therefore recommended to the favorable consideration of the Senate.

Statistical data relative to the eastern district of Tennessee is contained in appendix 26 hereto.

NORTHERN DISTRICT OF TEXAS

This provision of the bill will create an additional district judgeship for the northern district of Texas, and is recommended by the Judicial Conference of the United States. Since 1945 the civil caseload in this district has been extremely heavy, the caseload ranging from a high of 478 civil cases per judgeship in that year to a low of 287 in 1950. In recent years the caseload has been increasing steadily to 436 in 1954, compared to a national average in that year of 210 civil cases per judgeship. In 1945 almost two-thirds of the civil cases filed were price- and rent-control suits, which, on the average, did not require much court time for disposition, but in 1954 about 80 percent of the caseload consisted of time-consuming private civil litigation. This is a significant change in the character of the litigation and is an increased burden to the court.

Only through hard work have the judges been able to maintain the dockets in a current condition. The achievement by this court has been remarkable, but nonetheless the effects of the heavy caseload are beginning to be felt and the pending cases have been increasing for the past 3 years. There were 507 civil cases pending on June 30, 1954, compared with only 226 on June 30, 1941. A study of the judicial business and statistics contained in appendix 21 to this report appear to the committee to support the recommendation of the Judicial Conference of the United States for an additional district judgeship for this district. It is, therefore, recommended that this provision of the bill be considered favorably.

WESTERN DISTRICT OF TEXAS

This provision of the bill will create an additional district judgeship for the western district of Texas. It is recommended by the Judicial Conference of the United States and the Department of Justice heartily concurs in this recommendation.

The western district of Texas comprises 6 statutory divisions, with 6 places of holding court, at Austin, Del Rio, El Paso, Pecos, San Antonio, and Waco. In the Judicial Code of 1911, provision was made for 1 judgeship, and by the act of February 26, 1917 (39 Stat. 938) an additional judgeship was created and the district has had 2 judges since that time. The chief judge resides at Waco and the second judge at El Paso. The distance between these two cities is almost 650 miles and for this reason the chief judge generally handles the business of the court in the eastern half of the district, at Austin, San Antonio, and Waco, while the other judge takes care of the cases in the western part, at Del Rio, El Paso, and Pecos. The rules of court provide for 2 terms at each of these 6 places. The heavy caseloads in this district, combined with the distances to be traveled, make the burden of the two judges very much above average.

The civil business of the court for many years has been characterized by a large number of suits by employees to set aside awards of the Industrial Accident Board of Texas, about half of which are removed to the district court by defendant insurance companies because of diversity of citizenship. The criminal caseload consists of a very large number of immigration cases and a more than average number of other types, including many narcotics and fraud cases.

In the years since World War II there has been a rise in the number of cases commenced, both civil and criminal. In the last 2 fiscal years, however, there was a decline in the number of civil cases commenced from 777 in 1953 to 680 in 1955. This is principally the result of fewer workmen's compensation cases and other suits against insurance companies under the diversity jurisdiction which declined 71 cases in 1955, from 328 to 257. However, there has been a very large increase in private civil cases since 1946, from 149 to 452. The criminal caseload fell considerably during the past year because of fewer cases of illegal immigration, which declined by over 2,000 cases. These cases fluctuate in number, depending to a great extent upon the activity of the Immigration and Naturalization Service.

In every year since the fiscal year 1947, the civil caseload in the western district of Texas has exceeded the national average of civil cases commenced per judgeship. In the fiscal year 1955, the total civil caseload of cases commenced per judgeship was 340, compared to the national average of 212 civil cases per judgeship, and the private civil caseload was 226, or almost twice the national average of 126 such cases per judgeship. This is a significant factor because private civil cases on the average require more time for disposition than do other types of cases.

More criminal cases have been commenced in this district in the past few years than in any other district court, but most of the cases are illegal immigration cases which, on the average, require very little time to dispose of. Yet, when these cases are filed in volume, as they are in this district, they are a considerable burden on the court. And even without the immigration cases, the district has a caseload of criminal cases twice the average. In the fiscal year 1954 there were 208 criminal cases commenced per judgeship in this district, exclusive of immigration cases, compared to a national average of 104 such cases per judgeship.

In general, the court has been able to keep up with the heavy filings, but nevertheless the number of pending civil cases has been steadily increasing since 1948. On June 30 of that year, there were 363 civil cases pending in the district, and by June 30, 1955, this figure had increased to 682. The median time interval from filing to disposition of civil cases terminated after trial during the fiscal year 1955 was 11.8 months, compared to the national median of 14.6 months. and the median interval from issue to trial was 4.5 months, compared to the national median of 9.1 months.

In the last 11 years, the number of civil cases commenced annually has been evenly divided between the 3 divisions in the eastern half of the district and the 3 in the western half. The Del Rio, El Paso, and Pecos divisions in the western part are the divisions which border on Mexico, and it is here that 80 percent of the criminal cases are filed. Most of them are illegal immigration cases. In addition to the large caseload, the judge who serves this part of the district travels farther because of longer distances between places of holding court. It is

almost 400 airline miles from El Paso to Del Rio, the two places where most of the criminal cases are filed.

The number of trials in this district is unusually large. In 1954, there were 90 civil trials and 55 criminal trials, a total of 145. In 1955, the total was 130 trials, consisting of 70 civil trials and 60 criminal trials.

A review of the judicial business and statistics contained in appendix 22 to this report amply supports the view that the need for this additional district judgeship is apparent. It is, therefore, recommended that this provision of the bill be considered favorably.

DISTRICTS OF NEVADA, NEW MEXICO, SOUTH DAKOTA, WESTERN DISTRICT OF PENNSYLVANIA, AND THE DISTRICT OF UTAH

This provision of the bill will make permanent certain temporary judgeships provided for in Public Law 294 of the 83d Congress. Extensive hearings were held on this matter and oral and documentary evidence was presented in support thereof. In the cases of Nevada, New Mexico, South Dakota, and Utah, the making permanent of these temporary judgeships will carry out the theory heretofore expounded and recommended relative to the desirability of having 2 judges within every State which constitutes 1 judicial district. As to the Western States, it is well to point out that the vast distances between places of holding court consume a great portion of the judge's time in traveling from one place of sitting to another. As, for example, in the State of Nevada there is a distance of over 400 miles between the 2 largest population centers in the State and the judicial business is about evenly divided therein. When only one judge is within a State, there is a hardship created on the judge and on the litigants situated so far away from where he may be sitting, but with the addition of another judge, those problems are alleviated. Most of the States in the West are in this category, and even though the caseloads may not be comparable to those in the more heavily populated districts, the geographical situation nevertheless creates a need for adequate judgepower to handle the business of these courts. The same reasons that impelled the Congress in Public Law 294 to grant additional judgepower to these States will exist again in the event there should be a reduction in the present judgepower. Under the present provisions of the law, there must, of course, be such a reduction as time goes by, and it is not thought to be either economical or efficient to allow any of these districts to retrogress to the position where the dockets have become so crowded and the business of the courts so congested that they must again come before the Congress for additional judgepower. Too many times the committee has seen examples of the failure to grant additional judgepower before the harm was done and that when the process of providing an additional judgeship was completed, the judicial business had deteriorated to such a state as to require tremendous efforts to rectify the situation. So long as these districts remain in normal judicial process in the dispatch of their cases, it is believed that such a condition should be insured, insofar as possible, and that the temporary judgeships now existing in these districts should be made permanent. As stated before, a wealth of testimony and documentary evidence has been received by the committee in support of the provision of the bill, and from no source has there been any opposition filed thereto.

It is to be noted at this point that at a hearing before the Subcommittee on Improvements in Judicial Machinery of the Committee on the Judiciary, the Attorney General of the United States approved expressly the provisions to make permanent the temporary judgeships herein set forth.

As to the western district of Pennsylvania, on the basis of testimony and documentary evidence presented to the committee showing the need for this temporary judgeship being made permanent, the committee is convinced that this provision of the bill is meritorious. This is a thickly populated district, with extremely heavy dockets, and the committee feels that this provision of the bill is warranted and necessary for the expeditious handling and dispatch of the cases coming before the western district of Pennsylvania.

On the basis of the foregoing, the committee recommends favorable consideration of this provision of S. 1256.

Attached hereto as appendix 23 is certain statistical data submitted in connection with the districts of Nevada, New Mexico, South Dakota, and the western district of Pennsylvania, and the district of Utah.

The complete recommendations of the Judicial Conference of the United States as of January 5, 1956, together with a supporting letter of the Department of Justice dated February 16, 1956, are set forth in appendix 27 of this report.

AUTHORIZING HOLDING COURT AT DECATUR, ALA.

This section of the bill provides for the holding of terms of court for the northeastern division of the northern district of Alabama at Decatur. Accordingly, it amends section 81 (a) (2) of title 28 of the United States Code. At the present time, court for this division is held at Huntsville. It appears, however, that a considerable amount of litigation originates in the vicinity of Decatur and, therefore, it is recommended that Decatur be designated as a place for holding terms of the Federal court. The committee has been informed that local facilities will be made available for the purpose of holding court, at no expense to the Federal Government. It is further noted that this provision of the bill has received the favorable consideration of the Committee on the Judiciary of the House of Representatives in its consideration of H. R. 11743. Approval of this provision is recommended on the basis that it will serve as a convenience to the litigants in that area and that it can be done at no cost for facilities to the United States Government.

The foregoing comprises a discussion and supporting statistical data concerning the provisions of S. 1256 as proposed by the committee. In almost each and every instance, the evidence is wholly in support of each provision of this legislation. The committee believes that favorable consideration of S. 1256 will be a move forward to help in the tremendous backlogs now existing in some of the districts of the Federal judiciary system. It is, therefore, recommended that the provisions herein contained be given the favorable consideration of the Senate.

In the opinion of the committee it is necessary to dispense with the requirements of subsection (4) of rule XXIX of the Standing Rules of the Senate in order to expedite the business of the Senate.

APPENDIXES

APPENDIX 1

Appeals filed, terminated, and pending at the end of the year in the United States Court of Appeals for the Second Circuit, fiscal years 1941–54

Fiscal year	Appeals commenced	Appeals terminated	Appeals pending on June 30 [1]
1941	533	548	142
1942	501	471	172
1943	499	504	167
1944	595	547	215
1945	466	520	161
1946	425	450	136
1947	378	386	128
1948	381	378	131
1949	344	351	124
1950	318	355	87
1951	361	319	129
1952	350	349	130
1953	352	359	[2] 113
1954	366	325	[3] 154
First half of 1955	275	142	[2] [3] 287

[1] For the years 1941 to 1952, inclusive, this includes appeals which had been decided but in which a motion for rehearing was pending or time for such motion had not expired.
[2] Does not include any decided cases.
[3] As of Dec. 31.

A comparison of the cases filed in this court during the first 8 months of the current fiscal year with those filed in the same period of the fiscal year 1954 shows an increase over last year of more than 50 percent. The figures by month are as follows:

	Fiscal year 1954	Fiscal year 1955
Total for 8 months	235	381
July	25	28
August	22	27
September	50	40
October	36	53
November	23	73
December	31	54
January	22	60
February	26	46

The increase in the number of appeals during the current fiscal year and the two vacancies on the court one of which has existed since the retirement of Judge Chase on September 1, 1954 and the other since the elevation of Justice Harlan to the Supreme Court of the United States are combining to produce some congestion in the docket of the court. Some district judges are being assigned to the court but current conditions in the southern and eastern districts of New York and the district of Connecticut have limited the amount of help which can be asked from the district judges of this circuit.

Almost one-half of the cases commenced in the Court of Appeals for the Second Circuit are appeals from the United States District Court for the Southern District of New York, and the number of these has remained about the same for the last 5 full fiscal years, but has increased greatly in the first half of the fiscal year

1955. Appeals from decisions of the Tax Court of the United States and proceedings to review or enforce the orders of the National Labor Relations Board have increased. The following table shows the source of appeals for the last 5½ years:

Cases commenced per judgeship

	Fiscal year 1954	First half of fiscal year 1955
All circuits	51	26
District of Columbia	52	23
First	35	20
Second	61	46
Third	36	21
Fourth	70	26
Fifth	73	37
Sixth	51	22
Seventh	50	23
Eighth	33	20
Ninth	57	23
Tenth	42	25

In the fiscal year 1954 the second circuit caseload per judge of 61 was exceeded only by the fourth and fifth circuits and was 20 percent over the national average of 51. In the first half of 1955, the second circuit stood first with an average caseload per judge of 46, almost 80 percent above the national average of 26.

In spite of the heavy caseload the circuit has maintained a record for promptness in disposing of cases. In 1954 the median time from filing of the complete record to final disposition of 264 cases disposed of after hearing or submission was 4.6 months.

Source of appeals and original proceedings commenced in the United States Court of Appeals for the Second Circuit during the fiscal years 1950 to 1954 and the 1st half of 1955

Source of appeal	Fiscal year 1950	Fiscal year 1951	Fiscal year 1952	Fiscal year 1953	Fiscal year 1954	1st half fiscal year 1955
Total appeals	318	361	350	352	366	275
Connecticut	16	11	15	17	22	17
New York, northern	7	5	10	12	10	15
New York, eastern	34	49	33	43	39	37
New York, southern	186	177	165	167	150	121
New York, western	15	11	7	19	19	12
Vermont	4	2	2	3	3	6
The Tax Court of the United States	32	54	57	43	52	38
National Labor Relations Board	18	31	35	29	45	18
All other boards and commissions	5	12	12	12	7	8
Original proceedings	1	9	14	7	10	

Since 1951 the number of appeals commenced per judgeship in the second circuit has averaged 60 compared to the national average per judgeship in the same period of 49.

The caseload per judgeship for each circuit since 1941 is shown in table 1 attached. The number of cases filed per judgeship in 1954 and the first half of 1955 was as follows:

The following table shows the caseload per judge in other circuits in the fiscal year preceding that in which Congress created additional judgeships. In all but one instance this followed a recommendation by the Judicial Conference of the United States:

Additional circuit judgeships created by Congress since 1939 with the caseload per judge of the circuit in which the judgeship was recommended during the year preceding the action by Congress

Circuit	Number of additional judgeships	Date of act	Caseload per judge of cases filed during preceding fiscal year
6th	1	May 24, 1940	60
8th	2	do	63
5th	1	Dec. 14, 1942	77
3d	1	Dec. 7, 1944	55
District of Columbia	3	Aug. 3, 1949	77
3d	1	do	42
7th	1	do	55
10th	1	do	54
5th	1	Feb. 10, 1954	80
9th	2	do	64

The 1954 caseload of 61 cases commenced per judge in the second circuit is larger than that of any other circuit where the creation of not more than one judgeship was recommended except only the fifth circuit. It is apparent on the basis of filings for the first half of the current fiscal year that the caseload in the second circuit for 1955 will be materially larger than for 1954.

The Judicial Conference of the United States on March 24, 1955, in response to a request from the Judicial Council of the Second Circuit, recommended the creation of one additional circuit judgeship for this court.

Respectfully submitted.

JOSEPH F. SPANIOL, Jr.,
Attorney, Division of Procedural Studies and Statistics,
Administrative Office of the United States Courts.

April 1, 1955.

TABLE 1.—*Cases commenced per judgeship in the United States courts of appeals during fiscal years 1941–54, by circuit*

Circuit	Number of cases commenced													
	1941	1942	1943	1944	1945	1946	1947	1948	1949	1950	1951	1952	1953	1954
Total all circuits	56	57	53	53	46	45	44	47	51	44	46	47	50	51
District of Columbia	45	58	45	47	47	49	44	58	77	48	44	48	47	52
1st	29	33	40	35	28	25	33	26	25	22	27	27	28	35
2d	89	84	83	99	78	71	63	64	57	53	60	58	59	61
3d	57	58	71	55	50	33	44	48	42	34	39	40	42	36
4th	53	46	52	49	41	36	43	49	56	65	58	58	56	70
5th	81	77	58	59	55	50	54	66	76	68	70	75	80	73
6th	54	47	46	41	34	39	35	38	36	40	38	38	51	51
7th	68	65	57	56	48	52	56	46	55	46	39	34	43	50
8th	47	40	44	36	30	39	23	27	29	26	32	34	33	33
9th	42	48	42	49	38	41	45	41	46	45	58	63	64	57
10th	47	62	47	48	55	45	40	49	54	32	39	38	38	42

APPENDIX 2

THE JUDICIAL BUSINESS OF THE UNITED STATES DISTRICT COURT FOR THE TERRITORY OF ALASKA, THIRD DIVISION

The first United States District Court for the Territory of Alaska, established by an act approved June 6, 1900 (31 Stat. 322), provided for 3 judgeships and 3 divisions with prescribed terms of court at Juneau and Skagway for the first division, at St. Michaels for the second division, and at Eagle City for the third division. The act of March 3, 1909 (35 Stat. 839) divided Alaska into four judicial divisions and provided a judge for each who had overall jurisdiction throughout the Territory. The number of judicial positions has remained the same since that time.

In 1947, the Territorial legislature of Alaska recommended an additional judgeship to serve the third division. Early in 1949 the Judicial Conference of

the Ninth Circuit adopted the same recommendation and in the fall the Judicial Conference of the United States went on record in support of this measure. At each meeting subsequent to that date the Judicial Conference of the United States has reaffirmed this recommendation.

Since 1947, when the proposal was first advanced the civil business of this division has virtually tripled from 436 cases commenced in that year to 1,141 in the fiscal year 1954, and the increase has been a steady one. Criminal cases commenced have increased from 65 in 1947 to 173 in 1954.

Fiscal year	Civil cases commenced	Criminal cases commenced	Fiscal year	Civil cases commenced	Criminal cases commenced
1947	436	65	1951	746	104
1948	462	99	1952	853	135
1949	546	95	1953	1,029	218
1950	676	145	1954	1,141	173

In the civil caseload the increase has been entirely in private civil cases. There were 16 United States civil cases commenced in 1947 and the same number in 1954.

The result of the increased caseloads has been a steady rise in the number of pending cases. On June 30, 1941, there were 140 civil cases pending in the division and by June 30, 1947, this figure had more than doubled to 295. Since then the increase has been rapid and extreme and on June 30, 1954, there were 1,366 civil cases pending. In the past few years the criminal docket has also been increasing. On June 30, 1947, there were 42 cases on the docket and on June 30, 1954, this had risen to 196 cases.

The rise in pending civil and criminal cases is shown by the following table:

Civil and criminal cases pending, Third Division of Alaska

	Civil	Criminal		Civil	Criminal
June 30—			June 30—Continued		
1941	140	16	1949	466	61
1942	204	16	1950	535	74
1943	226	11	1951	668	70
1944	241	32	1952	814	96
1945	217	25	1953	1,052	129
1946	276	42	1954	1,366	196
1947	295	42	Dec. 31, 1954	1,496	111
1948	334	46			

The list of pending civil cases on the calendar as of December 15, 1954, required 129 mimeographed pages with about 10 cases to a page.

The principal categories of civil cases pending on December 31, 1954, were as follows:

Nature of action	*Civil cases pending*
Total	1,496
United States cases	54
United States plaintiff	35
United States defendant	19
Private civil cases	1,442
Federal question	14
Admiralty	2
Local jurisdiction	1,426
Contract actions	663
Real property actions	137
Tort actions	122
Divorce and maintenance	397
All other	107

The geographical area of this division is extensive. It is approximately 250 miles wide and 1,800 miles long including the Aleutian Islands. Although most of the business is transacted at Anchorage, a judge usually sits once a year at Cordova and from time to time at Valdez and Kodiak. Travel is difficult and at various times during the year virtually impossible.

The judicial business of this district is considerably larger than that of any other division within the Territory. In fact it is larger than that of the other three divisions combined. The comparison of the civil and criminal cases commenced in each division for the last 3 fiscal years is as follows:

Division	Civil cases commenced			Criminal cases commenced		
	1952	1953	1954	1952	1953	1954
Alaska, total	1,502	1,717	2,028	242	373	425
1st division	266	260	372	26	64	57
2d division	32	41	41	8	16	27
3d division	853	1,029	1,141	135	218	173
4th division	351	387	474	73	75	168

In the past considerable assistance has been rendered to the judge in the third division by the judges in the other divisions and particularly by those in the first and fourth divisions, but this has not been enough to cope with the rising caseloads.

Since the district court for the Territory of Alaska has local as well as Federal jurisdiction, the caseload is not comparable with that in the other Federal district courts. Nevertheless the rising figures of civil and criminal cases pending fully justify the Judicial Conference recommendation which was first made over 5 years ago.

A table showing the number of civil and criminal cases commenced, terminated and pending in the third division for the last 14 fiscal years is attached.

Respectfully submitted.

JOSEPH F. SPANIOL, JR.,
Attorney, Division of Procedural Studies and Statistics,
Administrative Office of the United States Courts.

FEBRUARY 25, 1955.

ALASKA, THIRD DIVISION

TABLE 1.—*Cases commenced and terminated, by fiscal year, and pending at the end of each year, beginning with 1941*

TOTAL CIVIL CASES

Fiscal year	Commenced	Terminated	Pending June 30	Fiscal year	Commenced	Terminated	Pending June 30
1941	248	218	140	1949	546	414	466
1942	289	225	204	1950	676	607	535
1943	317	295	226	1951	746	613	668
1944	320	305	241	1952	853	707	814
1945	321	345	217	1953	1,029	791	1,052
1946	369	310	276	1954	1,141	827	1,366
1947	436	317	395	First half of 1955	553	423	1,496
1948	462	423	334				

TABLE 1.—*Cases commenced and terminated, by fiscal year, and pending at the end of each year, beginning with 1941*—Continued

UNITED STATES CIVIL CASES (UNITED STATES A PARTY)

[OPA cases are in parentheses [1]]

Fiscal year	Commenced	Terminated	Pending June 30	Fiscal year	Commenced	Terminated	Pending June 30
1941	5	5	4	1949	19	12	22
1942	17	13	8	1950	12	9	25
1943	29	13	24	1951	16	24	17
1944	39	25	38	1952	20	10	27
1945	18 (9)	26	30	1953	25	11	41
1946	17 (13)	24	23	1954	16	19	38
1947	16 (7)	15	24	First half of 1955	23	7	54
1948	13	22	15				

[1] OPA cases, including rent control, are separately listed because from 1945 to 1947 they constituted a large proportion of all civil cases commenced, although they required on the average a relatively small proportion of court time per case for disposition during those years. They are included in the figure which they follow.

PRIVATE CIVIL CASES

Fiscal year	Commenced	Terminated	Pending June 30	Fiscal year	Commenced	Terminated	Pending June 30
1941	243	213	136	1949	527	402	444
1942	272	212	196	1950	664	598	510
1943	288	282	202	1951	730	589	651
1944	281	240	203	1952	833	697	787
1945	303	319	187	1953	1,004	780	1,011
1946	352	286	253	1954	1,125	808	1,328
1947	420	402	271	First half of 1955	530	416	1,442
1948	449	401	319				

CRIMINAL CASES

[Cases transferred are not included in "Commenced" and "Terminated" columns]

Fiscal year	Commenced	Terminated	Pending June 30	Fiscal year	Commenced	Terminated	Pending June 30
1941	61	52	16	1949	95	78	61
1942	57	57	16	1950	145	132	74
1943	63	68	11	1951	104	103	70
1944	70	49	32	1952	135	109	96
1945	83	90	25	1953	218	185	129
1946	99	82	42	1954	173	106	196
1947	65	63	42	First half of 1955	104	187	111
1948	99	96	46				

ADMINISTRATIVE OFFICE OF UNITED STATES COURTS,
June 14, 1955.

Senate Judiciary Committee,
Senate Office Building, Washington, D. C.

GENTLEMEN: At the hearing last week on the bill to provide for the appointment of additional judges (S. 1256), Senator O'Mahoney, presiding, suggested that the last sentence in the part of the bill relating to the additional district judgeship sought for Alaska (sec. 3, pp. 3 and 4) should be amended to make clear that the power of the President to assign a judge when appointed for the Territory of Alaska, is a power to be exercised only at the time of appointment and not thereafter changed. I would suggest that for that purpose the last sentence appearing on page 4, lines 9 to 11 of the pending bill as printed, be changed to read as follows:

"At the time of appointment the President shall permanently assign one of the district judges to the first division, one to the second division, two to the third division, and one to the fourth division."

Directly after the hearing I spoke about the form of the amendment of the sentence with Senator O'Mahoney and he made a suggestion with which the sentence set out above I think complies.

With kind regards, I am,

Sincerely yours,

HENRY P. CHANDLER.

APPENDIX 3

THE JUDICIAL BUSINESS OF THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF ARIZONA

Upon its admission into the Union on February 14, 1912, as the 48th State, Arizona was provided with one United States district judgeship. By the act of September 14, 1922, an additional temporary judgeship was authorized and was made permanent by the act of August 19, 1935. Judge David W. Ling, the chief judge, resides at Phoenix and Judge James A. Walsh at Tucson. There are four statutory places of holding court, Globe, Phoenix, Prescott, and Tucson.

Since the second judgeship was made permanent in 1935, the number of civil cases filed annually has increased by 50 percent and the number of criminal cases, including immigration proceedings, by 500 percent. Of the 3,168 criminal cases filed in the fiscal year 1954, about 87 percent were wetback cases involving violations of the immigration laws. These cases are not burdensome individually as the defendants almost all plead guilty and a large number of them can be disposed of at a single court session. However, because of the volume in which they are filed in this district, they necessarily take a considerable amount of court time.

Since 1944 the number of civil cases filed, terminated and pending in this district has been as follows:

Fiscal year	Commenced	Terminated	Pending at end of period	Fiscal year	Commenced	Terminated	Pending at end of period
1945	193	176	222	1951	226	231	217
1946	316	225	313	1952	214	217	214
1947	261	302	272	1953	213	167	260
1948	208	264	216	1954	216	242	254
1949	241	242	215	First half of 1955	191	125	320
1950	261	234	242				

The flow of criminal cases during the same period has been as follows:

[Defendants in the immigration cases are included in the total and are also separately listed in parentheses in the column "Commenced." Usually there is one defendant per case]

Fiscal year	Commenced	Terminated	Pending at end of period	Fiscal year	Commenced	Terminated	Pending at end of period
1945	745 (218)	580	228	1951	1,234 (810)	1,314	91
1946	800 (325)	809	219	1952	1,067 (653)	1,020	134
1947	982 (521)	1,130	68	1953	1,726 (1,289)	1,707	145
1948	733 (298)	688	117	1954	3,168 (2,754)	3,209	98
1949	889 (411)	851	133	First half of 1955	1,065 (893)	1,030	128
1950	1,209 (713)	1,128	195				

The State of Arizona in the last decade has had a large increase in population. According to the 1940 census there were approximately 500,000 inhabitants, but by 1950 the figure had risen 50 percent to 750,000 and the estimate of the Bureau of the Census as of July 1, 1954 was 993,000. Although the total civil business in the district of Arizona has not changed appreciably in the last 5 years, the private civil cases have been increasing as shown in the following table:

Civil cases commenced in Arizona

Fiscal year	Total civil	Private civil
1950	261	107
1951	226	106
1952	214	111
1953	213	116
1954	216	149

During this period the civil caseload per judgeship has been below the national average. In the fiscal year 1954 there were 108 civil cases commenced per judgeship in Arizona compared to the national average of 210 civil cases and the caseload of private civil cases was 75 compared to the national figure of 127. On December 31, 1954, there were 160 civil cases pending per judgeship.

The median time interval from filing to disposition of civil cases terminated after a trial in the district of Arizona during the fiscal year 1954 was 12.9 months compared to the national median of 13.5 months and the median interval from issue to trial was 6.1 months compared to the national median of 8.1 months. Median intervals for cases terminated after trial in previous years are listed in table 3 attached.

Although the civil caseload per judge in this State is below the average, the criminal caseload greatly exceeds the average, because of the large number of immigration cases brought against persons who enter the country illegally from Mexico.

Even without these wetback cases the District of Arizona has a criminal caseload per judge about twice the average. This caseload consists mostly of prosecutions for interstate theft of motor vehicles, illegal traffic in narcotics, and other cases of fraud or theft. During the fiscal year 1954 there were 209 criminal cases, exclusive of immigration, commenced per judgeship in Arizona compared to the national average of 103 such cases per judgeship.

The flow of cases in this district during the first half of the fiscal year 1955 as compared with the similar period of 1954 is as follows:

	Pending beginning first half	Filed	Terminated	Pending end of first half
Total civil:				
First half 1954	280	98	106	272
First half 1955	254	191	125	320
United States civil:				
First half 1954	145	26	44	127
First half 1955	117	137	71	183
Private civil:				
First half 1954	135	72	62	145
First half 1955	137	54	54	137
Criminal (original cases):				
First half 1954	145	1,782	1,701	218
First half 1955	98	1,065	1,030	128

The increase in United States civil cases is due almost entirely to an increase in suits on negotiable instruments and suits to recover overpayments to veterans and others. These cases numbered 83 in the first half of this fiscal year compared to 5 in the first half of last year.

Because of the large criminal caseload and the increasing trend in the population, the Judicial Conference of the United States at a special session in March 1955 recommended the creation of an additional judgeship for this district.

Complete statistical tables showing the civil and criminal business of this district for the last 14 fiscal years and copies of letters from the president of the State Bar of Arizona and the vice president of the Maricopa Bar Association are attached.

Respectfully submitted.

JOSEPH F. SPANIOL, JR.,
Attorney, Division of Procedural Studies and Statistics,
Administrative Office of the United States Courts.

APRIL 1, 1955.

STATE BAR OF ARIZONA,
Phoenix, Ariz., March 5, 1955.

Hon. WILLIAN DENMAN,
Chief Judge, United States Court of Appeals,
Ninth Judicial Circuit, United States Post Office and Courthouse,
San Francisco, Calif.

DEAR JUDGE DENMAN: The committee on judicial selection, tenure and compensation of the State Bar of Arizona has recommended that the mounting caseload in the Phoenix Division of the United States District Court requires immediate concern and that prompt steps be taken to obtain the creation of a second division of the court in Phoenix. The phenomenal population increase in Maricopa

County, Ariz., has completely disrupted the superior courts which are now 14 months from date of issue to trial. The same population increase is having a serious effect upon the Phoenix Division of the United States District Court, and good judicial administration indicates that the problem should be met before it gets out of hand.

The board of governors of the state bar has concurred in the recommendations of our committee on judicial selection, tenure and compensation, and I am, therefore, sending this information to you in the hope that it may be of some benefit in meeting the present situation.

Sincerely yours,

ARTHUR M. DAVIS, *President.*

MARICOPA COUNTY BAR ASSOCIATION,
March 8, 1955.

Senator BARRY GOLDWATER,
Washington, D. C.

DEAR SENATOR GOLDWATER: It is my understanding that hearings will shortly be held relative to the appointment of a third Federal judge for Arizona. You may be interested to know that at the regular meeting of the board of directors of the Maricopa County Bar Association held yesterday, the matter of the proposed creation of an additional Federal judge for Arizona was discussed and a resolution adopted favoring the appointment of another judge.

As you know, our superior courts are now laboring under a tremendous backlog of cases and various studies are now going forward directed toward improving our situation with regard to State courts. Also various items of legislation are now pending before the State legislature with regard to this matter. It was brought out at the meeting yesterday that the tremendous increase in population in this area which has brought about the difficulty and delay in trials of matters before State courts affect equally the Federal court here. The feeling of the board was that unless some prompt action is taken toward the creation of a third Federal judgeship for Arizona, the Federal court here will shortly have a backlog comparable to that of the State courts with a consequent breakdown in the speedy administration of justice.

After considerable discussion a resolution was unanimously adopted by the board suggesting the prompt creation of a third Federal judge for Arizona and we are advising you of the attitude of the attorneys in this area for whatever action you feel can be taken in Washington.

Very truly yours,

DEVENS GUST, *Vice President.*

DISTRICT OF ARIZONA

TABLE 1.—*Cases commenced and terminated, by fiscal year, and pending at the end of each year, beginning with 1941*

TOTAL CIVIL CASES

Fiscal year	Commenced	Terminated	Pending June 30	Fiscal year	Commenced	Terminated	Pending June 30
1941	149	138	118	1949	241	242	215
1942	158	145	131	1950	261	234	242
1943	195	150	176	1951	226	231	237
1944	267	238	205	1952	214	217	234
1945	193	176	222	1953	213	167	280
1946	316	225	313	1954	216	242	254
1947	261	302	272	First half of 1955	191	125	320
1948	208	264	216				

TABLE 1.—*Cases commenced and terminated, by fiscal year, and pending at the end of each year, beginning with 1941*—Continued

UNITED STATES CIVIL CASES (UNITED STATES A PARTY)

[OPA cases are in parentheses][1]

Fiscal year	Commenced	Terminated	Pending June 30	Fiscal year	Commenced	Terminated	Pending June 30
1941	89	85	50	1949	153 (27)	123	116
1942	112	84	78	1950	154	133	137
1943	142 (4)	97	123	1951	118	124	131
1944	203 (84)	183	143	1952	103 (5)	111	123
1945	131 (37)	121	153	1953	97 (6)	75	145
1946	246 (145)	172	227	1954	67	95	117
1947	175 (79)	237	165	First half of 1955	137	71	183
1948	98 (33)	177	86				

PRIVATE CIVIL CASES

Fiscal year	Commenced	Terminated	Pending June 30	Fiscal year	Commenced	Terminated	Pending June 30
1941	60	53	68	1949	88	119	99
1942	46	61	53	1950	107	101	105
1943	53	53	53	1951	108	107	106
1944	64	55	62	1952	111	106	111
1945	62	55	69	1953	116	92	135
1946	70	53	86	1954	149	147	137
1947	86	65	107	First half of 1955	54	54	137
1948	110	87	130				

CRIMINAL CASES

[Cases transferred are not included in "Commenced" and "Terminated" columns]

Fiscal year	Commenced	Terminated	Pending June 30	Fiscal year	Commenced	Terminated	Pending June 30
1941	414	463	49				
1942	550	510	89	1949	889	851	133
1943	684	631	142	1950	1,209	1,128	195
1944	655	734	63	1951	1,234	1,314	91
1945	745	580	228	1952	1,067	1,020	134
1946	800	809	219	1953	1,726	1,707	145
1947	982	1,130	68	1954	3,168	3,209	98
1948	733	688	117	First half of 1955	1,065	1,030	128

[1] OPA cases, including rent control, are separately listed because from 1945 to 1947 they constituted a large proportion of all civil cases commenced, although they required on the average a relatively small proportion of court time per case for disposition during those years. They are included in the figure which they follow.

TABLE 2.—*Cases commenced per judgeship*

TOTAL CIVIL CASES

Fiscal year	Arizona			National average: Cases commenced per judgeship [1]
	Number of judgeships	Cases commenced		
		Total	Per judgeship	
1941	2	149	75	164
1942	2	158	79	166
1943	2	195	98	158
1944	2	267	134	169
1945	2	193	97	295
1946	2	316	158	321
1947	2	261	131	271
1948	2	208	104	205
1949	2	241	121	238
1950	2	261	131	222
1951	2	226	113	204
1952	2	214	107	236
1953	2	213	107	261
1954	2	216	108	210

UNITED STATES CIVIL CASES (UNITED STATED A PARTY)

Fiscal year	Arizona		National average: Cases commenced per judgeship [1]	Fiscal year	Arizona		National average: Cases commenced per judgeship [1]
	Cases commenced	Cases commenced per judgeship			Cases commenced	Cases commenced per judgeship	
1941	89	45	83	1948	96	49	87
1942	112	56	91	1949	153	77	118
1943	142	71	100	1950	154	77	109
1944	203	102	113	1951	118	59	93
1945	131	66	238	1952	103	52	110
1946	246	124	251	1953	97	49	115
1947	175	87	162	1954	67	34	84

PRIVATE CIVIL CASES

Fiscal year	Arizona		National average: Cases commenced per judgeship [1]	Fiscal year	Arizona		National average: Cases commenced per judgeship [1]
	Cases commenced	Cases commenced per judgeship			Cases commenced	Cases commenced per judgeship	
1941	60	30	82	1948	110	55	117
1942	46	23	77	1949	88	44	121
1943	53	27	58	1950	107	54	113
1944	64	32	56	1951	108	54	111
1945	62	31	57	1952	111	56	126
1946	70	35	70	1953	116	58	146
1947	86	43	109	1954	149	75	127

[1] This column includes all districts having purely Federal jurisdiction: 86 districts for 1949 and thereafter; 84 districts before 1949.

Because caseload figures are given to the nearest whole number, it is not always possible to derive exact totals by adding component parts.

TABLE 2.—*Cases commenced per judgeship*—Continued

CRIMINAL CASES

Fiscal year	Arizona		National average: Cases commenced per judgeship [1]	Fiscal year	Arizona		National average: Cases commenced per judgeship [1]
	Cases commenced	Cases commenced per judgeship			Cases commenced	Cases commenced per judgeship	
1941	414	207	165	1948	733	367	167
1942	550	225	174	1949	889	445	177
1943	684	342	190	1950	1,209	605	169
1944	655	328	211	1951	1,234	617	180
1945	745	373	209	1952	1,067	534	177
1946	800	400	171	1953	1,726	863	171
1947	982	491	173	1954	3,168	1,584	172

TABLE 3.—*Time intervals in civil cases terminated in which a trial was held, for each fiscal year beginning with 1945*

CURRENCY OF DOCKETS

Fiscal year	Total cases terminated after trial		Median time intervals (in months) [1]			
			Filing to disposition		Issue to trial	
	Arizona	National [2]	Arizona	National [2]	Arizona	National [2]
1945	14	2,883	----	9.0	----	5.3
1946	14	3,421	----	8.9	----	5.0
1947	16	3,963	----	9.0	----	5.1
1948	28	4,548	10.7	9.9	7.0	5.8
1949	40	4,847	14.6	10.4	10.6	5.9
1950	32	5,020	12.9	11.2	7.0	6.7
1951	27	5,085	12.0	12.2	3.9	7.3
1952	35	4,767	15.3	12.1	5.7	7.0
1953	30	4,941	12.3	12.4	7.5	7.4
1954	48	4,825	12.9	13.5	6.1	8.1

[1] The median time interval from filing to disposition is computed by arranging all cases terminated during the year, in which a trial was held, in order according to the time from filing to disposition, from the lowest to the highest. The median time is then the time required for the middle case of the series or if there is an even number of cases, it is the average time for the 2 middle cases. The same procedure is followed in determining the median time from issue to trial. The median instead of the average is used because it prevents distortion of the result by a few nontypical long or short cases. No median has been computed where there were less than 20 cases.

The period from filing to disposition is the elapsed time from commencement to termination of the case. The period from issue to trial is the time from filing of the answer to the date trial is begun.

Land condemnation, habeas corpus, and forfeiture cases are not included because they are not representative of the time required for the general run of civil cases.

[2] These columns show the number of cases and the median time intervals for all districts having purely Federal jurisdiction: (86 districts for 1949 and thereafter; 84 districts before 1949).

TABLE 4.—*Cases commenced per judgeship in the district of Arizona and in 86 districts in the fiscal year 1954 by nature of suit*

	Cases commenced per judgeship		National average, cases terminated 1954: Percentage reaching trial [1]
	Arizona	86 districts	
			Percent
Civil cases:			
Total cases	108	210	11
United States cases	34	84	9
Private cases	75	127	13
United States plaintiff	24	65	6
Land condemnation	2	3	
Fair Labor Standards Act		2	11
Other enforcement suits	1	3	13
Food and Drug Act	2	5	1
Liquor laws	1	3	28
Other forfeitures and penalties	5	4	8
Negotiable instruments	5	25	1
Other contracts	5	13	4
Other United States plaintiff	6	6	7
United States defendant	10	19	16
Enjoin Federal agencies	1	2	18
Habeas corpus	5	4	12
Tort Claims Act	1	5	17
Tax suits	2	4	19
Other United States defendant	2	4	16
Federal question	10	33	11
Copyright		1	6
Employers' Liability Act	2	6	22
Fair Labor Standards Act	1	1	12
Habeas corpus		3	4
Jones Act		10	5
Miller Act	1	2	12
Patent	1	3	17
Other Federal question	7	9	10
Diversity of citizenship	65	81	15
Insurance	6	14	14
Other contracts	14	15	16
Real property	3	3	17
Personal injury (motor vehicle)	30	30	14
Personal injury (other negligence)	9	14	16
Other diversity	4	5	14
Admiralty		13	8
Criminal cases	1,584	172	9

[1] This column shows, by nature of suit, the percentage of all cases which were terminated after reaching the trial stage in the 86 United States district courts having purely Federal jurisdiction. Because these figures have been relatively stable over a period of years, they are valuable in assessing the relative burden on each judge of the caseloads given in the other 2 columns in terms of the probability that a given number of cases in each category will actually reach trial.

APPENDIX 4

THE JUDICIAL BUSINESS OF THE UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF CALIFORNIA

Two judgeships were authorized for the northern district of California by the Judicial Code of 1911 and a third temporary judicial position created by the act of September 14, 1922, was made permanent by the act of March 3, 1927. A fourth judgeship was created by the act of May 31, 1938, and a fifth by the act of June 15, 1946. On August 3, 1949, 2 more judgeships were added and the district now has a judicial force of 7.

In recent years the business of this district has been characterized by an extraordinary load of United States civil cases and more particularly of suits by

aliens to establish citizenship, land condemnation cases, and admiralty litigation. The number of private civil cases filed per judge has been consistently below the national average and diversity of citizenship cases have been running about one-third of the national average.

The flow of civil cases in this district for the prewar year 1941 and for the postwar years, 1946 to 1954 has been as follows:

Civil cases

Fiscal year	Commenced	Terminated	Pending at end of year	Fiscal year	Commenced	Terminated	Pending at end of year
1941	731	772	428	1950	1,328	1,488	1,373
1946	1,860	1,811	1,377	1951	1,245	1,290	1,328
1947	1,858	1,530	1,705	1952	1,448	1,232	1,544
1948	1,172	1,387	1,490	1953	1,875	1,212	2,207
1949	1,308	1,285	1,513	1954	1,591	1,355	2,443

The large increases in 1946–47 were due to OPA cases.

The 731 civil cases commenced in 1941 were less than one-half of the number commenced in 1954 and the 428 civil cases pending on June 30, 1941, were less than one-fifth of the number pending at the end of the fiscal year 1954. During that period the number of judgeships increased from 4 to 7.

At the present time one judge is permanently stationed at Sacramento and he receives some assistance from the judges at San Francisco. The civil, private civil, and criminal cases filed at San Francisco and Sacramento since 1946 have been as follows:

Fiscal year	Total			San Francisco			Sacramento		
	Total civil	Private civil	Criminal	Total civil	Private civil	Criminal	Total civil	Private civil	Criminal
1946	1,860	242	1,059	1,536	(1)	783	324	(1)	276
1947	1,858	546	685	1,582	498	482	276	48	203
1948	1,172	537	596	1,007	476	421	165	61	175
1949	1,308	534	648	1,105	457	438	203	77	210
1950	1,328	535	585	1,159	491	428	169	44	157
1951	1,245	508	418	1,056	427	311	189	81	107
1952	1,448	498	481	1,263	430	262	185	68	219
1953	1,875	687	501	1,621	614	332	254	73	169
1954	1,591	720	680	1,400	640	445	191	80	235

[1] Figures not available.

The criminal work in Sacramento is heavy. Last year 235 out of 680 criminal cases filed in the district were docketed in Sacramento and over the last 5 years one-third of all criminal cases in northern California were filed there. In 1954 out of 126 trial days in Sacramento 60 were spent on criminal business, not including the time spent on pleas and sentences.

On June 30, 1954, there were 2,443 civil cases pending in the district, 1,413 of which had been on the dockets for more than 1 year. Of the total number pending 693 were suits to review or enjoin the acts or decisions of Government officials or agencies. These are mostly Nationality Act cases filed prior to the effective date of the McCarran Act and they are awaiting the decision of questions now before the appellate courts. Pending land condemnation cases numbered 230 and all but 11 of these have been on the dockets for more than 1 year. United States plaintiff suits on negotiable instruments numbered 153 and cargo damage suits in admiralty, brought by private parties, were 256, two-thirds of which were more than 1 year old on June 30, 1954. These four categories of cases account for over one-half of the total cases pending on that date and three-fourths of all the cases pending on June 30 which were on the dockets for 1 year or more.

Most of the pending Nationality Act cases were filed during the fiscal year 1953 and in that year the caseload of civil cases commenced per judgeship increased to 268 as compared to a caseload of 207 civil cases the year before. In

the fiscal year 1954 the caseload decreased to 227 cases compared with 210 civil cases nationally.

Table 1, attached, including the entire district shows a steady increase in the civil cases filed in the northern district since the year 1948. The large increase in 1953 was accounted for by the filing of a great number of Nationality Act cases. There were a total of 676 of these cases still pending on December 31, 1954, 605 at San Francisco and 71 at Sacramento. The number of criminal cases has increased only moderately since 1948 but they have included some long criminal trials which have taken a considerable amount of court time.

Table 2 for the district shows the cases commenced per judgeship compared with the national average. For the last 3 years the total civil cases per judgeship have approximated the national average but the criminal caseload has been below the national average per judgeship. Private civil cases have been consistently below the national average per judgeship and these ordinarily take much more time of the judge than do Government civil cases. However there are some additional factors which are entitled to consideration.

One of these is the nationality act cases to which reference has already been made. When the points of law on this subject now before the court of appeals are settled, these cases can be disposed of, but it is impossible to tell how much time this will require for the individual case.

Another factor not adequately represented in the statistics is the burden of land condemnation cases. As of December 31 there were 97 of these pending in San Francisco and 141 in Sacramento or a total of 238. Many of these cases include a number of tracts and as the district doesn't use commissioners in these cases they may require considerable time for trial. About one-half of them were filed before the fiscal year 1948.

According to the Lands Division of the Department of Justice, there are 3 principal condemnation projects in the district. The Folsom Reservoir in the northern division consists of about 119 tracts which have not yet been settled. These are reported to be complicated cases a large percentage of which will have to be tried. The earliest of them were filed in 1948 and 1949 but most of the cases were filed within the last 2 or 3 years.

The Farmington Dam also in this division has about 35 tracts still pending.

The Central Valley project is divided between the northern and southern divisions and consists mainly of canals for irrigation and rights-of-way for transmission lines. There may also be some small dams involved. In these cases the majority of the claims are for severance damages. The number of tracts is larger than for the Folsom Reservoir project.

The Lands Division of the Department of Justice has 3 men working constantly in San Francisco and 1 other assistant has been working at least part of the time. These representatives of the Lands Division report that they have been having a difficult time getting their cases to trial and that there has been a considerable amount of delay caused by the congestion of the court dockets.

A third factor is the unusually large number of long trials in this district. For the last 3 years there has been an average of 12 trials per year taking 10 days or over and one-half of these trials have been criminal trials. A summary of the number of these long trials is as follows:

Long trials in the northern district of California

Fiscal year	Number of trials over 10 days	Total trial days
1952	9	176
1953	13	283
1954	13	216
Average	12	225

The condition of the docket is shown by the median time from filing to disposition and from issue to trial for civil cases reaching trial. The figures in table 3 indicate that the medians were below the national median in 1951, about equal to it in 1952, somewhat above it in 1953, and equal to it again in 1954 when the time from filing to disposition was 13.6 months and the time from issue to trial was 8.1 months.

Table 4 shows the cases commenced per judgeship in the northern district by nature of suit compared with the national average in 1954.

The number of civil cases filed in the Sacramento division has alsobenn increasing and the pending caseload has risen from 250 at the end of 1948 to 359 at the end of fiscal year 1954. Here, as in San Francisco the increase has been in United States cases. The criminal caseload has varied from year to year but in 1954 was considerably larger than in any other recent year. The pending criminal caseload however has been kept down and was only 63 on June 30, 1954.

The following table shows that the population of this district from 1940 to 1950 increased over 50 percent as compared with 14 percent for the whole co ntry and from 1910 to 1950, 188 percent compared with 62 percent nationally:

	Northern district of California		United States less northern district of California	
	Population	Percent gain	Percent gain	Population
1950	4,049,064			146,648,297
1940	2,662,237			128,602,994
10-year gain	1,386,827	52.09	14.03	18,045,203
1940	2,662,237			128,602,994
1930	2,325,880			120,449,166
10-year gain	336,357	14.46	6.77	8,153,826
1930	2,325,880			120,449,166
1920	1,753,646			103,956,971
10-year gain	572,234	32.63	15.86	16,492,195
1920	1,753,646			103,956,971
1910	1,407,368			90,564,898
10-year gain	346,278	24.60	14.79	13,392,073
Net gain, 1910-50	2,641,696	187.71	61.93	56,083,299

In a 4-year period the population of the entire State of California increased from 10,586,223 to an estimated 12,554,000 on July 1, 1954. This is an 18.6 percent increase.

During the first half of the fiscal year 1955 there has been an increase in the civil cases commenced to 756 compared to 723 civil cases in the similar period of the fiscal year 1954. Criminal cases remained about the same, 297 in the first half of 1955 as compared with 290 in the first half of 1954.

Taking into consideration the increases in cases commenced and the number pending at the end of the year and the rising population trend of this district, the Judicial Conference of the United States in September 1953 recommended the creation of one additional judicial position on a permanent basis, and has renewed this recommendation at subsequent meetings.

Complete statistical tables showing the number of civil and criminal cases in this district for the last 14 fiscal years are attached.

Respectfully submitted.

WILL SHAFROTH,
Chief, Division of Procedural Studies and Statistics,
Administrative Office of the United States Courts.

FEBRUARY 25, 1955.

NORTHERN DISTRICT OF CALIFORNIA

TABLE 1.—*Cases commenced and terminated, by fiscal year, and pending at the end of each year, beginning with 1941*

TOTAL CIVIL CASES

Fiscal year	Commenced	Terminated	Pending June 30	Fiscal year	Commenced	Terminated	Pending June 30
1941	731	772	425	1949	1,308	1,285	1,513
1942	644	649	423	1950	1,328	1,468	1,373
1943	868	670	621	1951	1,245	1,290	1,328
1944	1,302	1,017	906	1952	1,448	1,232	1,544
1945	2,020	1,598	1,328	1953	1,875	1,212	2,207
1946	1,860	1,811	1,377	1954	1,591	1,355	2,443
1947	1,858	1,530	1,705	First half of 1955	756	757	2,442
1948	1,172	1,387	1,490				

UNITED STATES CIVIL CASES (UNITED STATES A PARTY)

[OPA cases are in parentheses [1]]

Fiscal year	Commenced	Terminated	Pending June 30	Fiscal year	Commenced	Terminated	Pending June 30
1941	452	471	191	1949	774 (318)	769	887
1942	385	338	238	1950	793 (334)	821	859
1943	687 (125)	460	465	1951	737 (286)	765	831
1954	1,127 (562)	840	752	1952	950 (179)	733	1,048
1954	1,804 (1,343)	1,418	1,138	1953	1,188 (151)	713	1,523
1946	1,618 (1,050)	1,613	1,143	1954	871	737	1,657
1947	1,312 (755)	1,238	1,217	First half of 1955	454	481	1,630
1948	635 (220)	970	882				

PRIVATE CIVIL CASES

Fiscal year	Commenced	Terminated	Pending June 30	Fiscal year	Commenced	Terminated	Pending June 30
1941	279	301	237	1949	534	516	626
1942	259	311	185	1950	535	647	514
1943	181	210	156	1951	508	525	497
1944	175	177	154	1952	498	499	496
1945	216	180	190	1953	687	499	684
1946	242	198	234	1954	720	618	786
1947	546	292	488	First half of 1955	302	276	812
1948	537	417	608				

CRIMINAL CASES

[Cases transferred are not included in "Commenced" and "Terminated" columns]

Fiscal year	Commenced	Terminated	Pending June 30	Fiscal year	Commenced	Terminated	Pending June 30
1941	485	485	146	1949	648	800	351
1942	661	623	184	1950	585	609	239
1943	706	708	182	1951	418	452	193
1944	1,165	992	355	1952	481	448	230
1945	1,314	1,221	448	1953	501	486	245
1946	1,059	1,013	494	1954	680	671	250
1947	685	836	401	First half of 1955	297	395	170
1948	596	831	313				

[1] OPA cases including rent control, are separately listed because from 1945 to 1947 they constituted a large proportion of all civil cases commenced, although they required on the average a relatively small proportion of court time per case for disposition during those years. They are included in the figure which they follow.

TABLE 2.—*Cases commenced per judgeship*

TOTAL CIVIL CASES

Fiscal year	Northern California			National average: Cases commenced per judgeship [1]
	Number of judgeships	Cases commenced		
		Total	Per judgeship	
1941	4	731	183	164
1942	4	644	161	168
1943	4	868	217	158
1944	4	1,302	326	169
1945	4	2,020	505	295
1946	5	1,860	372	321
1947	5	1,858	372	271
1948	5	1,172	234	205
1949	5	1,308	262	238
1950	7	1,328	190	222
1951	7	1,245	178	204
1952	7	1,448	207	236
1953	7	1,875	268	261
1954	7	1,591	227	210

UNITED STATES CIVIL CASES (UNITED STATES A PARTY)

Fiscal year	Northern California		National average: Cases commenced per judgeship [1]	Fiscal year	Northern California		National average: Cases commenced per judgeship [1]
	Cases commenced	Cases commenced per judgeship			Cases commenced	Cases commenced per judgeship	
1941	452	113	83	1948	635	127	87
1942	385	96	91	1949	774	155	118
1943	687	172	100	1950	793	114	109
1944	1,127	282	113	1951	737	105	93
1945	1,804	451	238	1952	950	136	110
1946	1,618	324	251	1953	1,188	170	115
1947	1,312	262	162				

PRIVATE CIVIL CASES

Fiscal year	Northern California		National average: Cases commenced per judgeship [1]	Fiscal year	Northern California		National average: Cases commenced per judgeship [1]
	Cases commenced	Cases commenced per judgeship			Cases commenced	Cases commenced per judgeship	
1941	279	70	82	1948	537	107	117
1942	259	65	77	1949	534	107	121
1943	181	45	58	1950	535	76	113
1944	175	44	56	1951	508	73	111
1945	216	54	57	1952	498	71	125
1946	242	48	70	1953	687	98	146
1947	546	109	109	1954	720	103	127

See footnotes at end of table, p. 51.

TABLE 2.—*Cases commenced per judgeship*—Continued

CRIMINAL CASES

Fiscal year	Northern California		National average: Cases commenced per judgeship [1]	Fiscal year	Northern California		National average: Cases commenced per judgeship [1]
	Cases commenced	Cases commenced per judgeship			Cases commenced	Cases commenced per judgeship	
1941	485	121	165	1948	596	119	167
1942	661	165	174	1949	648	130	177
1943	706	177	190	1950	585	84	169
1944	1,165	291	211	1951	418	60	180
1945	1,314	329	209	1952	481	69	177
1946	1,059	212	171	1953	501	72	171
1947	685	137	173	1954	680	97	172

[1] This column includes all districts having purely Federal jurisdiction: 86 districts for 1949 and thereafter; 84 districts before 1949.

Because caseload figures are given to the nearest whole number, it is not always possible to derive exact totals by adding component parts.

TABLE 3.—*Time intervals in civil cases terminated in which a trial was held, for each fiscal year beginning with 1945*

CURRENCY OF DOCKETS

Fiscal year	Total cases terminated after trial		Median time intervals (in months) [1]			
			Filing to disposition		Issue to trial	
	Northern California	National [2]	Northern California	National [2]	Northern California	National [2]
1945	81	2,883	7.7	9.0	4.7	5.3
1946	134	3,421	11.2	8.9	5.1	5.0
1947	153	3,963	8.9	9.0	5.0	5.1
1948	223	4,548	10.5	9.9	5.9	5.8
1949	239	4,847	10.1	10.4	4.9	5.9
1950	243	5,020	10.5	11.2	5.7	6.7
1951	242	5,085	11.0	12.2	5.7	7.3
1952	193	4,767	12.4	12.1	7.4	7.0
1953	189	4,941	13.6	12.4	8.7	7.4
1954	219	4,825	13.6	13.5	8.1	8.1

[1] The median time interval from filing to disposition is computed by arranging all cases terminated during the year, in which a trial was held, in order according to the time from filing to disposition, from the lowest to the highest. The median time is then the time required for the middle case of the series or if there is an even number of cases, it is the average time for the two middle cases. The same procedure is followed in determining the median time from issue to trial. The median instead of the average is used because it prevents distortion of the result by a few nontypical long or short cases. No median has been computed where there were less than 25 cases.

The period from filing to disposition is the elapsed time from commencement to termination of the case. The period from issue to trial is the time from filing of the answer to the date trial is begun.

Land condemnation, habeas corpus, and forfeiture cases are not included because the are not representative of the time required for the general run of civil cases.

[2] These columns show the number of cases and the median time intervals for all districts having purely Federal jurisdiction: 86 districts for 1949 and thereafter; 84 districts before 1949.

TABLE 4.—*Cases commenced per judgeship in the northern district of California and in 86 districts in the fiscal year 1954 by nature of suit*

	Cases commenced per judgeship		National average, cases terminated 1954: Percentage reaching trial [1]
	California (northern)	86 districts	
			Percent
Civil cases:			
Total cases	227	210	11
United States cases	124	84	9
Private cases	103	127	13
United States plaintiff	79	65	6
Land condemnation	2	3	
Fair Labor Standards Act	1	2	11
Other enforcement suits	2	3	13
Food and Drug Act	0	5	1
Liquor laws	1	3	28
Other forfeitures and penalties	6	4	8
Negotiable instruments	33	25	1
Other contracts	18	13	4
Other United States plaintiff	10	6	7
United States defendant	46	19	16
Enjoined Federal agencies	5	2	18
Habeas corpus	10	4	12
Tort Claims Act	10	5	17
Tax suits	4	4	19
Other United States defendant	17	4	16
Federal question	38	33	11
Copyright		1	6
Employers' Liability Act	9	6	22
Fair Labor Standards Act		1	12
Habeas corpus	7	3	4
Jones Act	11	10	5
Miller Act	2	2	12
Patent	1	3	17
Other Federal question	7	9	10
Diversity of citizenship	35	81	15
Incurance	6	14	14
Other contracts	9	15	16
Real property	2	3	17
Personal injury (motor vehicle)	4	30	14
Personal injury (other negligence)	12	14	16
Other diversity	2	5	14
Admiralty	30	13	8
Criminal cases	97	172	9

[1] This column shows, by nature of suit, the percentage of all cases which were terminated after reaching the trial stage in the 86 United States district courts having purely Federal jurisdiction. Because these figures have been relatively stable over a period of years, they are valuable in assessing the relative burden on each judge of the caseloads given in the other 2 columns in terms of the probability that a given number of cases in each category will actually reach trial.

APPENDIX 5

THE JUDICIAL BUSINESS OF THE DISTRICT OF COLORADO

The State of Colorado had a single district judgeship from its creation until an additional position was authorized by the act of February 10, 1954. Court for the district is held in Denver. The rapid increase of population from 1,123,000 in 1940 to 1,456,000 in 1954 has brought with it expansion in the economy of the State and a marked increase in judicial business.

The civil cases filed, terminated and pending from 1941 to date have been as follows:

Fiscal year	Commenced	Terminated	Pending June 30	Fiscal year	Commenced	Terminated	Pending June 30
1941	193	183	99	1949	327	291	213
1942	212	215	96	1950	458	339	332
1943	278	215	159	1951	368	349	351
1944	211	234	136	1952	361	346	366
1945	647	461	322	1953	419	363	422
1946	590	630	282	1954	365	282	505
1947	385	481	186	1st half of 1955	143	177	471
1948	246	255	177				

The flow of criminal cases has been as follows:[1]

Fiscal year	Commenced	Terminated	Pending June 30	Fiscal year	Commenced	Terminated	Pending June 30
1941	147	158	30	1949	270	272	39
1942	256	228	58	1950	411	359	45
1943	315	289	84	1951	375	348	56
1944	495	423	156	1952	453	379	100
1945	352	353	155	1953	389	367	109
1946	234	293	96	1954	448	387	137
1947	307	327	68	1st half of 1955	176	193	123
1948	313	299	51				

[1] Transferred cases are not included.

The heavy caseloads of recent years caused the Judicial Council of the Tenth Circuit and the Judicial Conference of the United States to recommend an additional judgeship which was created last year.

In the meanwhile the pending backlog of civil cases had increased to a point where there has been a real denial of justice in some cases as a result of delay.

The median times from issue to trial and filing to disposition since 1951 are shown by the following figures:

Year	Cases terminated after trial	Median from filing to disposition		Median from issue to trial	
		Colorado	National median	Colorado	National median
1951	28	16.8	12.2	11.2	7.3
1952	39	15.0	12.1	11.0	7.0
1953	38	18 6	12.4	11.1	7.4
1954	21	[1] 23.0	13.5	[1] 13.7	8.1

[1] Combined figure for 1953 and 1954.

During the first 8 months of the fiscal year 1955, there were 30 civil trials in the district, excluding land condemnation, forfeiture, and habeas corpus proceedings. The median time from issue to trial for these cases was 20.9 months.

Half of these cases involved personal injury or damage to property. Of the 30 cases 17 of them had intervals from issue to trial ranging from a minimum of 18.1 months to a maximum of 26.4 months. This gives a picture of the business of the district and indicates that the average litigant who goes to trial in a civil

case must now wait from a year and a half to 2 years from the time answer is filed before getting to trial. This is the worst docket condition which the district has faced and indicates the necessity for relief.

To combat this situation Judge Phillips has brought in a steady stream of visiting judges from the circuit to sit in Colorado. It is safe to say that during the past 2 years, the number of days spent by visiting judges in the district of Colorado has exceeded that in any other district in the United States, except in metropolitan courts with many more judges.

The visiting judges who have sat in the district since the beginning of the fiscal year 1952 include Judges Ritter and Christenson of Utah, Rice, Savage, Chandler, Wallace, and Vaught of Oklahoma, Hill and Mellott of Kansas, Kennedy of Wyoming and Rogers of New Mexico. Judge Murrah of the court of appeals is scheduled to sit in the district court in Denver shortly. Out of 237 trials during the fiscal years 1952–54, 145 or 61 percent were conducted by visiting judges.

During the past 8 months (July 1954–February 1955) Judges Knous and Breitenstein have tried 48 cases both civil and criminal and visiting judges, 19 cases not including those heard by a 3-judge court.

The use of visiting judges is a highly commendable and valuable method of employing available judgepower in the circuit and it has had its finest exemplification in the 10th circuit. However, it is primarily a temporary expedient for use in meeting an emergency. The judgepower in a particular district should be sufficient to meet the normal needs of the district.

The district judges in Colorado and the chief judge of the 10th circuit are convinced that permanent judicial help is now necessary. Judge Knous is temporarily ill and Judge Breitenstein has commenced the trial of a Communist conspiracy case under the Smith Act which it is estimated will require 3 months. Several additional long cases are in prospect.

For the last 10 years the number of trials in the district has been as follows:

Fiscal year	Total trials	Civil trials	Criminal trials
1945	31	10	21
1946	51	36	15
1947	24	14	10
1948	37	15	22
1949	38	27	11
1950	43	16	27
1951	70	34	36
1952	85	39	46
1953	65	36	29
1954	85	28	57

While the figures have fluctuated from year to year the strong increasing trend is unmistakable. Although the caseload per judge of civil cases commenced is now below the national average, 183 compared to 210 in 1954, the criminal caseload has been about twice as heavy as the national average, 217 compared with 103 in 1954 if immigration cases are excluded. The number of criminal trials in all district courts was less than 40 percent of the total in 1954 while in Colorado it was over two-thirds of the total.

At a special session in March 1955 the Judicial Conference of the United States recommended the creation of an additional judgeship for this district.

Statistical tables for the district are attached.

Respectfully submitted.

WILL SHAFROTH,
Chief, Division of Procedural Studies and Statistics,
Administrative Office of the United States Courts.

APRIL 1, 1955.

District of Colorado

TABLE 1.—*Cases commenced and terminated, by fiscal year, and pending at the end of each year, beginning with 1941*

TOTAL CIVIL CASES

Fiscal year	Commenced	Terminated	Pending June 30	Fiscal year	Commenced	Terminated	Pending June 30
1941	193	183	99	1949	327	291	213
1942	212	215	96	1950	458	339	332
1943	278	215	159	1951	368	349	351
1944	211	234	136	1952	361	346	366
1945	647	461	322	1953	419	363	422
1946	590	630	282	1954	365	282	505
1947	385	481	186	First half of 1955	143	177	471
1948	246	255	177				

UNITED STATES CIVIL CASES (UNITED STATES A PARTY)

[OPA cases are in parentheses [1]]

Fiscal year	Commenced	Terminated	Pending June 30	Fiscal year	Commenced	Terminated	Pending June 30
1941	123	112	49	1949	208 (63)	188	112
1942	174	159	64	1950	267 (58)	216	163
1943	235 (67)	173	126	1951	231 (98)	223	171
1944	170 (48)	192	104	1952	212 (71)	219	164
1945	608 (506)	434	278	1953	234 (64)	251	147
1946	546 (390)	584	240	1954	161	138	170
1947	298 (174)	420	118	First half of 1955	52	77	145
1948	148 (16)	174	92				

PRIVATE CIVIL CASES

Fiscal year	Commenced	Terminated	Pending June 30	Fiscal year	Commenced	Terminated	Pending June 30
1941	70	71	50	1949	119	103	101
1942	38	56	32	1950	191	123	169
1943	43	42	33	1951	137	126	180
1944	41	42	32	1952	149	127	202
1945	39	27	44	1953	185	112	275
1946	44	46	42	1954	204	144	335
1947	87	61	68	First half of 1955	91	100	326
1948	98	81	85				

CRIMINAL CASES

[Cases transferred are not included in "Commenced" and "Terminated" columns]

Fiscal year	Commenced	Terminated	Pending June 30	Fiscal year	Commenced	Terminated	Pending June 30
1941	147	158	30	1949	270	272	39
1942	256	228	58	1950	411	359	45
1943	315	289	84	1951	375	348	56
1944	495	423	156	1952	453	379	100
1945	352	353	155	1953	389	367	109
1946	234	293	96	1954	448	387	137
1947	307	327	68	First half of 1955	176	193	123
1948	315	299	51				

[1] OPA cases, including rent control, are separately listed because from 1945 to 1947 they constituted a large proportion of all civil cases commenced, although they required on the average a relatively small proportion of court time per case for disposition during those years. They are included in the figure which they follow.

TABLE 2.—*Cases commenced per judgeship*

TOTAL CIVIL CASES

Fiscal year	Colorado		National average: Cases commenced per judgeship [1]	Fiscal year	Colorado		National average: Cases commenced per judgeship [1]
	Number of judgeships	Cases commenced per judgeship			Number of judgeships	Cases commenced per judgeship	
1941	1	193	164	1948	1	246	205
1942	1	212	168	1949	1	327	238
1943	1	278	158	1950	1	458	222
1944	1	211	169	1951	1	368	204
1945	1	647	206	1952	1	361	236
1946	1	590	321	1953	1	419	261
1947	1	385	271	1954	2	183	210

UNITED STATES CIVIL CASES (UNITED STATES A PARTY)

Fiscal year	Colorado, cases commenced per judgeship	National average: Cases commenced per judgeship [1]	Fiscal year	Colorado, cases commenced per judgeship	National average: Cases commenced per judgeship [1]
1941	123	83	1948	148	87
1942	174	91	1949	208	118
1943	235	100	1950	267	109
1944	170	113	1951	231	93
1945	603	238	1952	212	110
1946	546	251	1953	234	115
1947	298	162	1954	81	84

PRIVATE CIVIL CASES

Fiscal year	Colorado, cases commenced per judgeship	National average: Cases commenced per judgeship [1]	Fiscal year	Colorado, cases commenced per judgeship	National average: Cases commenced per judgeship [1]
1941	70	82	1948	98	117
1942	38	77	1949	119	121
1943	43	58	1950	191	113
1944	41	56	1951	137	111
1945	39	57	1952	149	126
1946	44	70	1953	185	146
1947	87	109	1954	102	127

CRIMINAL CASES

Fiscal year	Colorado, cases commenced per judgeship	National average: Cases commenced per judgeship [1]	Fiscal year	Colorado, cases commenced per judgeship	National average: Cases commenced per judgeship [1]
1941	147	165	1948	313	167
1942	256	174	1949	270	177
1943	315	190	1950	411	169
1944	495	211	1951	375	180
1945	352	209	1952	453	177
1946	234	171	1953	389	171
1947	307	173	1954	224	172

[1] This column includes 86 districts for 1949 and thereafter; 84 districts before 1949.

Because caseload figures are given to the nearest whole number, it is not always possible to derive exact totals by adding component parts.

TABLE 3.—*Time intervals in civil cases terminated in which a trial was held, for each fiscal year beginning with 1945*

CURRENCY OF DOCKETS

Fiscal year	Total cases terminated after trial		Median time intervals (in months) [1]			
			Filing to disposition		Issue to trial	
	Colorado	National [2]	Colorado	National [2]	Colorado	National [2]
1945	5	2,883	----------	9.0	----------	5.3
1946	25	3,421	6.9	8.9	4.1	5.0
1947	11	3,963	----------	9.0	----------	5.1
1948	19	4,548	----------	9.9	----------	5.8
1949	22	4,847	----------	10.4	----------	5.9
1950	16	5,020	----------	11.2	----------	6.7
1951	28	5,085	16.8	12.2	11.2	7.3
1952	39	4,767	15.0	12.1	11.0	7.0
1953	38	4,941	18.6	12.4	11.1	7.4
1954	21	4,825	[3] 23.0	13.5	[3] 13.7	8.1

[1] The median time interval from filing to disposition is computed by arranging all cases terminated during the year, in which a trial was held, in order according to the time from filing to disposition, from the lowest to the highest. The median time is then the time required for the middle case of the series or if there is an even number of cases, it is the average time for the two middle cases. The same procedure is followed in determining the median time from issue to trial. The median instead of the average is used because it prevents distortion of the result by a few nontypical long or short cases. No median has been computed where there were less than 25 cases.

The period from filing to disposition is the elapsed time from commencement to termination of the case. The period from issue to trial is the time from filing of the answer to the date trial is begun.

Land condemnation, habeas corpus, and forfeiture cases are not included because they are not representative of the time required for the general run of civil cases.

[2] These columns show the number of cases and the median time intervals for all districts having purely Federal jurisdiction: 86 districts for 1949 and thereafter; 84 districts before 1949.

[3] This figure is based on the number of cases terminated during the fiscal years 1953 and 1954 combined.

TABLE 4.—*Cases commenced per judgeship in the district of Colorado and in 86 districts in the fiscal year 1954 by nature of suit*

	Cases commenced per judgeship		National average: Cases terminated 1954: Percentage reaching trial [1]
	Colorado	86 districts	
Civil cases:			
Total cases	183	210	11
United States cases	81	84	9
Private cases	102	127	13
United States plaintiff	72	65	6
Land condemnation	1	3	
Fair Labor Standards Act	5	2	11
Other enforcement suits	2	3	13
Food and Drug Act	10	5	1
Liquor laws	2	3	28
Other forfeitures and penalties	3	4	8
Negotiable instruments	30	25	1
Other contracts	15	13	4
Other United States plaintiff	4	6	7
United States defendant	9	19	16
Enjoin Federal agencies	1	2	18
Habeas corpus	1	4	12
Tort Claims Act	1	5	17
Tax suits	4	4	19
Other United States defendant	3	4	16
Federal question	29	33	11
Copyright		1	6
Employers' Liability Act	8	6	22
Fair Labor Standards Act	1	1	12
Habeas corpus	1	3	4
Jones Act		10	5
Miller Act	5	2	12
Patent	2	3	17
Other Federal question	12	9	10
Diversity of citizenship	74	81	15
Insurance	6	14	14
Other contracts	24	15	16
Real property	5	3	17
Personal injury (motor vehicle)	25	30	14
Personal injury (other negligence)	6	14	16
Other diversity	8	5	14
Admiralty		13	8
Criminal cases	224	172	9

[1] This column shows, by nature of suit, the percentage of all cases which were terminated after reaching the trial stage in the 86 United States district courts having purely Federal jurisdiction. Because these figures have been relatively stable over a period of years, they are valuable in assessing the relative burden on each judge of the caseloads given in the other 2 columns in terms of the probability that a given number of cases in each category will actually reach trial.

APPENDIX 6

THE JUDICIAL BUSINESS OF THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF CONNECTICUT

A second judgeship was created in Connecticut in 1927 and there has been no addition to the judgepower of the State since that time. Court is regularly held at Hartford and New Haven.

Civil cases filed and terminated for the last 14½ years and the number pending at the end of each fiscal year have been as follows:

Total civil cases

Fiscal year	Commenced	Terminated	Pending June 30	Fiscal year	Commenced	Terminated	Pending June 30
1941	293	244	229	1949	337	324	291
1942	211	230	210	1950	378	373	296
1943	262	235	237	1951	371	312	355
1944	206	197	246	1952	563	432	486
1945	324	301	269	1953	622	473	635
1946	407	433	243	1954	499	413	721
1947	332	270	305	First half 1955	296	228	789
1948	267	294	278				

[1] December 31, 1954.

It will be observed that large increases in cases filed have occurred since 1950 and the pending caseload has more than doubled since that time.

The principal increase has been in private cases. There has also been a substantial rise in criminal cases since 1950. The number of United States civil, private civil, and criminal cases filed in the last 5½ years has been as follows:

[Rent- and price-control cases in parentheses]

Fiscal year	United States civil cases	Private civil	Criminal (not including transfers)
1950	240 (86)	138	93
1951	179 (49)	192	115
1952	308 (177)	255	94
1953	273 (134)	349	146
1954	97	402	198
First half 1955	72	224	54

A great change in the character of the civil business of the district has taken place since before the last war when most of the civil actions were those in which the Government was a party. Two hundred and thirty-four Government cases were commenced in the fiscal year 1941 and only 59 private cases. At the end of 9 years, private cases had doubled while Government cases remained at about the same level. By 1952 private cases had doubled again and 2 years later had increased 50 percent over 1952, and Government cases had decreased sharply in number principally because of the cessation of litigation under the price- and rent-control regulations. The result is that while in 1941, the number of private cases filed were only 20 percent of the civil total, and cases in which the United States was a party were 80 percent, in 1954 the proportions were reversed and private cases were 80 percent and Government cases were 20 percent.

As a result of studies by the Administrative Office, it is estimated that on the average, private cases take about threefold as much time of the judge per case filed, as do United States cases. Therefore the change in the nature of the civil litigation in this district has a very direct bearing on the condition of the dockets.

Chief Judge J. Joseph Smith of Connecticut attributes this change to the increase in population in the district, the congestion in the State courts and the steady rise in motor-vehicle negligence cases. There is no doubt that there have been important recent changes in the economy of the State which have had an important effect on the judicial business. The population of the State has increased from 1,709,242 in 1940 to an estimated 2,219,000 on July 1, 1954. In-

come payments to individuals have gone from $1,417 million in 1940 to $4,375 million in 1952. Motor-vehicle registrations have gone up from 494,000 in 1940 to 782,000 in 1952. Roads have been greatly improved and superhighways have been built.

The increase since 1950 in certain types of private cases is shown by the following table:

Federal question and diversity cases filed in Connecticut

	Fiscal year				
	1950	1951	1952	1953	1954
Federal question	30	34	62	52	72
Diversity	94	148	186	293	324
Contracts	35	43	39	44	57
Personal injury, motor vehicle	34	63	102	193	171
Personal injury, other	12	28	32	41	65
All other diversity	13	14	13	15	31
Diversity cases removed from State courts	21	44	21	26	46

The result of the increase in private cases has been some congestion of the civil dockets as is shown by the increase in the time for getting to trial and for disposing of cases as set forth in table 3 attached.

The caseload per judge of civil cases in 1954 was 250 compared with the national average of 210, but the caseload of private civil cases per judge was 201 compared with the national average of 127. This is the most important single item in assessing the workload of district judges.

Of the 33 two-judge districts in the country only 3, the eastern district of Louisiana and the eastern and western districts of Texas, had a higher private civil caseload per judge in 1954 than Connecticut and of the 8 three-judge districts there were only 2, the northern district of Texas and the western district of Missouri, which were higher.

At a special session of the Judicial Conference of the United States called by the Chief Justice in March 1955, a recommendation of the Judicial Council of the Second Circuit for legislation to create an additional district judgeship for Connecticutt was approved.

A letter of Judge Smith dated February 28, 1955 to Judge Charles E. Clark, chief judge of the Court of Appeals of the Second Circuit is attached, as well as statistical tables concerning the district.

Respectfully submitted.

WILL SHAFROTH,
Chief, Division of Procedural Studies and Statistics.

MARCH 29, 1955.

FEBRUARY 28, 1955.

HON. CHARLES E. CLARK,
Chief Judge, United States Court of Appeals,
New Haven, Conn.

DEAR JUDGE CLARK: Since talking with you last week, I have gone over our calendar situation with Gil Earl and find that it has been worsening more rapidly than I had thought. I had been a little too optimistic in the fall in thinking that a leveling off at the present volume would enable us to reach a more current status and even continue occasionally to help out elsewhere, if occasionally we received a little outside help, as in the past.

However, the sharp rise in the last 4 years, continuing in the first half of this fiscal year, with resultant lengthening of time in bringing cases to trial, makes it apparent that two of us can no longer handle the volume of business even with occasional outside help. The increase in population in the district, the congestion in the State courts and the steady rise in motor-vehicle-negligence cases all contribute to the trend. * * *

The criminal cases have picked up a little in the recent years, following the drop after the war, but not significantly in number.

However, at present two Smith Act cases are included, which may be expected to take a great deal of trial time. It is possible that on reindictment they will be consolidated, which might help so far as trial time is concerned.

The bankruptcy cases, fortunately, seldom take much court time, since petitions for review of the decisions of our two referees are comparatively rare.

From 1940 to 1951 the number of civil cases filed, while showing some upward curve, remained within our ability to handle on a practically current basis, with once in a while a chance for one of us to help out for a short time in the southern district or in Vermont. Since 1951, however, the civil load, and particularly the private civil cases which are the most time consuming have had a very considerable increase, which continues. In January and February we continued to have more filed than disposed of, so that the backlog, particularly of private civil cases, continues to increase, now totaling over 800 for all civil cases. * * *

The time from issue to trial which stood at the rather good level of 4.7 months in 1951 has steadily increased since and is now at an undesirably high level. The estimated present time from claim for trial list to trial, based on an analysis of 150 sample cases is 9.5 months. Since some time elapses on the average between issue and claim for trial, it is safe to assume that the time from issue to trial is now more than 9.5 months. * * *

I believe that the caseload per judge has reached the point where three judges are permanently necessary to handle the business of the district.

This is without regard to the additional and we hope temporary load imposed by the pending Smith Act case and a private civil antitrust damage action against the major automobile companies.

I request therefore that legislation be proposed for an additional district judge for the District of Connecticut at this time.

With kindest regards,

Sincerely,

J. JOSEPH SMITH,
United States District Judge.

DISTRICT OF CONNECTICUT

TABLE 1.—*Cases commenced and terminated, by fiscal year, and pending at the end of each year, beginning with 1941*

TOTAL CIVIL CASES

Fiscal year	Commenced	Terminated	Pending June 30	Fiscal year	Commenced	Terminated	Pending June 30
1941	293	244	229	1948	267	294	278
1942	211	230	210	1949	337	224	291
1943	262	235	237	1950	378	373	296
1944	206	197	246	1951	371	312	355
1945	324	301	269	1952	563	432	486
1946	407	433	243	1953	622	473	635
1947	332	270	305	1954	499	413	721

UNITED STATES CIVIL CASES (UNITED STATES A PARTY)

[OPA cases are in parentheses [1]]

Fiscal year	Commenced	Terminated	Pending June 30	Fiscal year	Commenced	Terminated	Pending June 30
1941	234 (...)	174	140	1948	167 (41)	195	155
1942	161 (...)	163	138	1949	202 (57)	207	150
1943	217 (16)	182	173	1950	240 (86)	233	157
1944	146 (18)	154	165	1951	179 (49)	166	170
1945	249 (136)	242	172	1952	308 (177)	258	220
1946	324 (211)	351	145	1953	273 (134)	216	277
1947	211 (107)	173	183	1954	97 (...)	126	248

[1] OPA cases, including rent control, are separately listed because from 1945 to 1947 they constituted a large proportion of all civil cases commenced, although they required on the average a relatively small proportion of court time per case for disposition during those years. They are included in the figure which they follow.

TABLE 1.—*Cases commenced and terminated, by fiscal year, and pending at the end of each year, beginning with 1941*—Continued

PRIVATE CIVIL CASES

Fiscal year	Commenced	Terminated	Pending June 30	Fiscal year	Commenced	Terminated	Pending June 30
1941	59	70	80	1948	100	99	123
1942	50	67	72	1949	135	117	141
1943	45	53	64	1950	138	140	139
1944	60	43	81	1951	192	146	185
1945	75	59	97	1952	255	174	266
1946	83	82	98	1953	349	257	358
1947	121	97	122	1954	402	287	473

CRIMINAL CASES

[Cases transferred are not included in "Commenced" and "Terminated" columns]

Fiscal year	Commenced	Terminated	Pending June 30	Fiscal year	Commenced	Terminated	Pending June 30
1941	134	131	22	1948	118	111	37
1942	146	151	17	1949	124	135	27
1943	276	247	46	1950	93	121	6
1944	320	337	29	1951	115	106	24
1945	265	252	42	1952	94	102	17
1946	138	140	40	1953	146	136	29
1947	111	127	29	1954	198	173	50

TABLE 2.—*Cases commenced per judgeship*

TOTAL CIVIL CASES

Fiscal year	Connecticut			National average: Cases commenced per judgeship [1]
	Number of judgeships	Cases commenced		
		Total	Per judgeship	
1941	2	293	147	164
1942	2	211	106	168
1943	2	262	131	158
1944	2	206	103	169
1945	2	324	162	295
1946	2	407	204	321
1947	2	332	166	271
1948	2	267	134	205
1949	2	337	169	238
1950	2	378	189	222
1951	2	371	186	204
1952	2	563	282	236
1953	2	622	311	261
1954	2	499	250	210

See footnotes at end of table, p. 63.

TABLE 2.—*Cases commenced per judgeship*—Continued

UNITED STATES CIVIL CASES (UNITED STATES A PARTY)

Fiscal year	District of Connecticut		National average: Cases commenced per judgeship [1]	Fiscal year	District of Connecticut		National average: Cases commenced per judgeship [1]
	Cases commenced	Cases commenced per judgeship			Cases commenced	Cases commenced per judgeship	
1941	234	117	83	1948	167	84	87
1942	161	81	91	1949	202	101	118
1943	217	109	100	1950	240	120	109
1944	146	73	113	1951	179	90	93
1945	249	125	238	1952	308	154	110
1946	324	163	251	1953	273	137	115
1947	211	106	162	1954	97	49	84

PRIVATE CIVIL CASES

Fiscal year	District of Connecticut		National average: Cases commenced per judgeship [1]	Fiscal year	District of Connecticut		National average: Cases commenced per judgeship [1]
	Cases commenced	Cases commenced per judgeship			Cases commenced	Cases commenced per judgeship	
1941	59	30	82	1948	100	50	117
1942	50	25	77	1949	135	68	121
1943	45	23	58	1950	138	69	113
1944	60	30	56	1951	192	96	111
1945	75	38	57	1952	255	128	126
1946	83	42	70	1953	349	175	146
1947	121	61	109	1954	402	201	127

CRIMINAL CASES

Fiscal year	Connecticut		National average: Cases commenced per judgeship [1]	Fiscal year	Connecticut		National average: Cases commenced per judgeship [1]
	Cases commenced	Cases commenced per judgeship			Cases commenced	Cases commenced per judgeship	
1941	134	67	165	1948	118	59	167
1942	146	73	174	1949	124	62	177
1943	276	138	190	1950	93	47	169
1944	320	160	211	1951	115	58	180
1945	265	133	209	1952	94	47	177
1946	138	69	171	1953	146	73	171
1947	111	56	173	1954	198	99	173

[1] This column includes all districts having purely Federal jurisdiction: 86 districts for 1949 and thereafter; 84 districts before 1949.

Because caseload figures are given to the nearest whole number, it is not always possible to derive exact totals by adding component parts.

TABLE 3.—*Time intervals in civil cases terminated in which a trial was held, for each fiscal year beginning with 1945*

CURRENCY OF DOCKETS

Fiscal year	Total cases terminated after trial		Median time intervals (in months) [1]			
			Filing to disposition		Issue to trial	
	Connecticut	National [2]	Connecticut	National [2]	Connecticut	National [2]
1945	16	2,883	----------	9.0	----------	5.3
1946	23	3,421	----------	8.9	----------	5.0
1947	19	3,963	----------	9.0	----------	5.1
1948	22	4,548	----------	9.9	----------	5.8
1949	43	4,847	9.6	10.4	5.5	5.9
1950	40	5,020	11.0	11.2	5.2	6.7
1951	43	5,085	8.9	12.2	4.7	7.3
1952	37	4,767	7.8	12.1	5.5	7.0
1953	72	4,941	9.6	12.4	6.4	7.4
1954	46	4,825	11.2	13.5	7.6	8.1

[1] The median time interval from filing to disposition is computed by arranging all cases terminated during the year, in which a trial was held, in order according to the time from filing to disposition, from the lowest to the highest. The median time is then the time required for the middle case of the series or if there is an even number of cases, it is the average time for the 2 middle cases. The same procedure is followed in determining the median time from issue to trial. The median instead of the average is used because it prevents distortion of the result by a few nontypical long or short cases. No median has been computed where there were less than 25 cases.

The period from filing to disposition is the elapsed time from commencement to termination of the case. The period from issue to trial is the time from filing of the answer to the date trial is begun.

Land condemnation, habeas corpus, and forfeiture cases are not included because they are not representative of the time required for the general run of civil cases.

[2] These columns show the number of cases and the median time intervals for all districts having purely Federal jurisdiction (86 districts for 1949 and thereafter; 84 districts before 1949).

TABLE 4.—*Cases commenced per judgeship in the district of Connecticut and in 86 districts in the fiscal year 1954, by nature of suit*

	Cases commenced per judgeship		National average, cases terminated 1954: Percentage reaching trial [1]
	Connecticut	86 districts	
Civil cases:			*Percent*
Total cases	250	210	11
United States cases	49	84	9
Private cases	201	127	13
United States plaintiff	31	65	6
Land condemnation	2	3	
Fair Labor Standards Act	2	2	11
Other enforcement suits	6	3	13
Food and Drug Act	2	5	1
Liquor laws		3	28
Other forfeitures and penalties	2	4	8
Negotiable instruments	5	25	1
Other contracts	6	13	4
Other United States plaintiff	8	6	7
United States defendant	18	19	16
Enjoin Federal agencies	1	2	18
Habeas corpus	1	4	12
Tort Claims Act	8	5	17
Tax suits	7	4	19
Other United States defendant	1	4	16
Federal question	36	33	11
Copyright	1	1	6
Employers' Liability Act	5	6	22
Fair Labor Standards Act	2	1	12
Habeas corpus	3	3	4
Jones Act	3	10	5
Miller Act	3	2	12
Patent	5	3	17
Other Federal question	16	9	10
Diversity of citizenship	162	81	15
Insurance	12	14	14
Other contracts	17	15	16
Real property	2	3	17
Personal injury (motor vehicle)	86	30	14
Personal injury (other negligence)	33	14	16
Other diversity	14	5	14
Admiralty	3	13	8
Criminal cases	99	172	9

[1] This column shows, by nature of suit, the percentage of all cases which were terminated after reaching the trial stage in the 86 United States district courts having purely Federal jurisdiction. Because these figures have been relatively stable over a period of years, they are valuable in assessing the relative burden on each judge of the cases is given in the other 2 columns in terms of the probability that a given number of cases in each category will actually reach trial.

APPENDIX 7

THE JUDICIAL BUSINESS OF THE UNITED STATES DISTRICT COURTS FOR THE NORTHERN AND SOUTHERN DISTRICTS OF IOWA

The act of July 20, 1882 (22 Stat. 172) which divided the State of Iowa into 2 judicial districts, provided for 1 judge for the northern district and 1 judge for the southern district. There has been no change in the number of judgeships since that date except for the act of January 19, 1928 (45 Stat. 52), which provided for the appointment of one additional judgeship for the southern district with the proviso that the first vacancy occuring in the existing judgeship should not be filled. This temporary judgeship expired in 1931. Judge Henry N. Graven, of the northern district, has been in active service since March 30, 1944, and is 61 years of age. Judge William F. Riley who is the district judge in the southern district is 70 years of age and has been in active service since December 28, 1950.

90005—57 S. Rept., 84–2, vol. 5——20d

Except for the war and postwar years of 1945 and 1946 when a large number of price and rent control cases were filed, the civil caseload in the northern and southern districts has been generally below the national average. But in the southern district in the last 2 fiscal years the civil caseload has exceeded the national average. In 1953 there were 275 cases commenced in this district compared to 261 per judgeship nationally and in 1954 the figure was 266 civil cases commenced as against a national figure of 210 such cases per judgeship.

There is no large backlog of pending civil cases in either district. On December 31, 1954, there were 69 civil cases pending in the northern district, and 156 in the southern district. During the year ending on June 30, 1954, the judge in the northern district disposed of 181 civil cases and the judge in the southern district, 285 civil cases. In the southern district the median time interval from filing to disposition of civil cases terminated after trial during the fiscal years 1953 and 1954 was 13.1 months and from issue to trial it was 8.9 months. This compares with the national medians for 1954 of 13.5 months and 8.1 months, respectively.

In the eighth circuit the population per district judgeship on the basis of the 1950 census and the present number of judgeships is approximately 670,000 compared with a population per judgeship in the State of Iowa of 1,300,000. The number of judgeships and the population for each district in the circuit is as follows:

District	Number of judgeships	Population, 1950 census	District	Number of judgeships	Population, 1950 census
Total, 8th circuit	21	14,065,606	Minnesota	4	2,982,483
			Missouri, eastern	3	2,143,218
Arkansas, eastern	1.5	1,188,611	Missouri, western	3	1,811,435
Arkansas, western	1.5	720,900	Nebraska	2	1,325,510
Iowa, northern	1	1,298,626	North Dakota	2	619,636
Iowa, southern	1	1,322,447	South Dakota	2	652,740

It will be observed that in the 3 other 2-judge States in the circuit the population is far below that in Iowa. The following table gives the population for all two-judge districts in the United States. It will be seen that the two districts in Iowa taken together rank ahead of all of these in population per judgeship.

District	*Population, 1950 census*	*District*	*Population, 1950 census*
Iowa, northern and southern	2,621,073	Illinois, eastern	1,343,225
Connecticut	2,007,280	Illinois, southern	1,647,659
New York, northern	2,418,585	Indiana, northern	1,592,794
New York, western	2,341,042	Indiana, southern	2,341,430
Maryland	2,343,001	Wisconsin, eastern	2,047,030
South Carolina, eastern	1,214,463	Nebraska	1,325,510
Virginia, western	1,427,460	North Dakota	619,636
Alabama, northern	1,733,469	South Dakota	652,740
Georgia, northern	1,478,421	Arizona	749,587
Georgia, middle	1,190,791	Idaho	588,637
Louisiana, eastern	1,339,822	Montana	591,024
Louisiana, western	1,343,694	Nevada	160,083
Texas, eastern	1,307,282	Hawaii	499,794
Texas, western	1,865,399	Colorado	1,325,089
Michigan, western	1,545,221	Kansas	1,905,299
Tennessee, eastern	1,410,825	New Mexico	681,187
Tennessee, middle	896,173	Utah	688,862

The following States have a population smaller than the State of Iowa, but more district judgeships:

District	Number of judgeships	Population, 1950 census	District	Number of judgeships	Population, 1950 census
Delaware	3	318,085	Oklahoma	5	2,233,351
West Virginia	3	2,005,552	Washington	4	2,378,963
South Carolina	3	2,117,024	Oregon	3	1,521,341
Arkansas	3	1,909,511			

Although population figures are not the most reliable basis on which to calculate the amount of judicial business in the Federal courts, population is a factor of some significance in that connection.

The judges in both districts labor under the disadvantage of distance between places of holding court. In the northern district the statute provides for terms of the court at Cedar Rapids, Dubuque, Waterloo, Sioux City, Fort Dodge, and Mason City and in the southern district at Des Moines, Keokuk, Council Bluffs, Creston, Davenport, and Ottumwa. There are 6 places of holding court in each district and the rules of court provide generally for 2 terms at each place. It is approximately three hundred miles from Dubuque to Sioux City in the northern district and an equal distance from Davenport to Council Bluffs in the southern district and each judge must make at least two swings through his district each year to handle just the regular business which arises. Exhibit 1 attached shows the number of places visited each month by these judges during the fiscal year 1954 together with the number of trials and pretrial conferences held at each. This exhibit does not show the amount of routine business transacted at each point but it does testify to the amount of travel undertaken.

There can be little doubt that because the judges cannot be everywhere at once, trials are sometimes delayed. This together with the burden upon the judges themselves of long trips away from home and of a slowly, but ever-increasing caseload, prompted the Judicial Conference of the United States at its regular annual meeting in September 1953 to recommend an additional judicial position for the State of Iowa to serve both districts and to renew the recommendation in 1954.

The number of civil and criminal cases commenced and terminated during the first half of the fiscal year 1955 compared with the same period in 1954 in the northern district is as follows:

	Pending beginning first half	Commenced	Terminated	Pending end of first half
Total civil cases:				
First half of 1954	68	104	76	96
First half of 1955	72	83	86	69
Private civil cases:				
First half of 1954	43	51	40	54
First half of 1955	37	39	42	34
Criminal cases:				
First half of 1954	7	55	48	11
First half of 1955	22	46	53	14

The same comparison for the southern district is as follows:

	Pending beginning first half	Commenced	Terminated	Pending end of first half
Total civil cases:				
First half of 1954	196	117	138	175
First half of 1955	177	127	148	156
Private civil cases:				
First half of 1954	114	64	66	112
First half of 1955	96	76	68	104
Criminal cases:				
First half of 1954	19	32	37	13
First half of 1955	4	37	30	8

Complete statistical tables concerning the civil and criminal business of both the northern and southern districts of Iowa for the last 14 fiscal years are attached.

Respectfully submitted.

JOSEPH F. SPANIOL, JR.,
Attorney, Division of Procedural Studies and Statistics,
Administrative Office of the United States Courts.

FEBRUARY 15, 1955.

EXHIBIT I

Number of trials and pretrials commenced in the northern district of Iowa, by place of holding court and by month, fiscal year 1954

Month	Place of holding court	Number of trials	Number of pretrials
July	Fort Dodge	1	
	Cedar Rapids	2	6
	Waterloo		2
August	Cedar Rapids	1	
	Waterloo	1	
September	Sioux City		7
	Fort Dodge	1	
	Cedar Rapids	2	
	Waterloo	3	
	Dubuque	1	5
October	Sioux City	3	
	Fort Dodge	2	
November	Sioux City		3
	Mason City	1	2
	Fort Dodge		2
December	do	1	1
January	Cedar Rapids		4
	Waterloo		3
February	Sioux City	1	
	Waterloo	1	
March	Sioux City	4	12
	Fort Dodge		4
	Waterloo	2	
	Dubuque		1
April	Sioux City	3	1
	Fort Dodge	2	1
	Cedar Rapids	1	
	Waterloo	1	
May	Fort Dodge	3	
	Dubuque		3
June	Sioux City	1	1
	Fort Dodge	1	
	Mason City		3
	Dubuque	1	4
July	Des Moines		2
August	do	1	5
September	do		6
	Creston	1	
	Davenport	3	1
October	Des Moines		9
	Council Bluffs	2	6
	Ottumwa	2	1
November	Des Moines	4	
December	do	3	3
	Keokuk		1
January	Des Moines	1	
March	do		6
	Davenport	4	6
April	Des Moines		1
	Keokuk	2	3
	Council Bluffs	1	7
May	Des Moines	6	6
	Davenport	1	1
June	Des Moines	2	

NORTHERN DISTRICT OF IOWA

TABLE 1.—*Cases commenced and terminated, by fiscal year, and pending at the end of each year, beginning with 1941*

TOTAL CIVIL CASES

Fiscal year	Commenced	Terminated	Pending June 30	Fiscal year	Commenced	Terminated	Pending June 30
1941	102	93	21	1949	129	131	48
1942	81	78	24	1950	136	137	47
1943	103	108	19	1951	125	117	55
1944	130	119	30	1952	173	165	63
1945	326	292	64	1953	239	234	68
1946	513	472	105	1954	185	181	72
1947	223	275	53	First half of 1955	83	86	69
1948	113	116	50				

UNITED STATES CIVIL CASES (UNITED STATES A PARTY)

[OPA cases are in parentheses [1]]

Fiscal year	Commenced	Terminated	Pending June 30	Fiscal year	Commenced	Terminated	Pending June 30
1941	60	61	8	1949	73 (21)	56	23
1942	41	41	8	1950	61 (12)	64	20
1943	78 (46)	76	10	1951	48 (7)	55	13
1944	116 (73)	105	21	1952	87 (13)	84	16
1945	303 (240)	281	43	1953	147	138	25
1946	477 (419)	440	80	1954	111	101	35
1947	116 (113)	227	19	First half of 1955	44	44	35
1948	49 (10)	62	6				

PRIVATE CIVIL CASES

Fiscal year	Commenced	Terminated	Pending June 30	Fiscal year	Commenced	Terminated	Pending June 30
1941	42	32	13	1949	56	75	25
1942	40	37	16	1950	75	73	27
1943	25	32	9	1951	77	62	42
1944	14	14	9	1952	86	81	47
1945	23	11	21	1953	92	96	43
1946	36	32	25	1954	74	80	37
1947	57	48	34	First half of 1955	39	42	34
1948	64	54	44				

CRIMINAL CASES

[Cases transferred are not included in "Commenced" and "Terminated" columns]

Fiscal year	Commenced	Terminated	Pending June 30	Fiscal year	Commenced	Terminated	Pending June 30
1941	71	69	7	1949	56	54	4
1942	97	73	31	1950	75	73	7
1943	84	92	23	1951	50	49	6
1944	74	78	19	1952	71	60	13
1945	101	87	33	1953	58	64	7
1946	80	87	26	1954	98	80	22
1947	92	106	11	First half of 1955	45	53	14
1948	66	74	5				

[1] OPA cases, including rent control, are separately listed because from 1945 to 1947 they constituted a large proportion of all civil cases commenced, although they required on the average a relatively small proportion of court time per case for disposition during those years. They are included in the figure which they follow.

TABLE 2.—*Cases commenced per judgeship*

TOTAL CIVIL CASES

Fiscal year	Iowa (northern)		National average: Cases commenced per judgeship [1]	Fiscal year	Iowa (northern)		National average: Cases commenced per judgeship [1]
	Number of judgeships	Cases commenced per judgeship			Number of judgeships	Cases commenced per judgeship	
1941	1	102	164	1948	1	113	205
1942	1	81	168	1949	1	129	238
1943	1	103	158	1950	1	136	222
1944	1	130	169	1951	1	125	204
1945	1	326	295	1952	1	173	236
1946	1	513	321	1953	1	239	261
1947	1	223	271	1954	1	185	210

UNITED STATES CIVIL CASES (UNITED STATES A PARTY)

Fiscal year	Iowa (northern), cases commenced per judgeship	National average: cases commenced per judgeship [1]	Fiscal year	Iowa (northern), cases commenced per judgeship	National average: cases commenced per judgeship [1]
1941	60	83	1948	49	87
1942	41	91	1949	73	118
1943	78	100	1950	61	109
1944	116	113	1951	48	93
1945	203	238	1952	87	110
1946	477	251	1953	147	118
1947	166	162	1954	111	84

PRIVATE CIVIL CASES

Fiscal year	Iowa (northern), cases commenced per judgeship	National average: cases commenced per judgeship [1]	Fiscal year	Iowa (northern), cases commenced per judgeship	National average: cases commenced per judgeship [1]
1941	42	82	1948	64	117
1942	40	77	1949	56	121
1943	25	58	1950	75	113
1944	14	56	1951	77	111
1945	23	57	1952	86	126
1946	36	70	1953	92	146
1947	57	109	1954	74	127

CRIMINAL CASES

Fiscal year	Iowa (northern), cases commenced per judgeship	National average: cases commenced per judgeship [1]	Fiscal year	Iowa (northern), cases commenced per judgeship	National average: cases commenced per judgeship [1]
1941	71	165	1948	68	167
1942	97	174	1949	56	177
1943	84	190	1950	75	169
1944	74	211	1951	50	180
1945	101	209	1952	71	177
1946	80	171	1953	58	171
1947	92	173	1954	96	172

[1] This column includes 86 districts for 1949 and thereafter; 84 districts before 1949.

Because caseload figures are given to the nearest whole number, it is not always possible to derive exact totals by adding component parts.

TABLE 3.—*Time intervals in civil cases terminated in which a trial was held, for each fiscal year beginning with 1945*

CURRENCY OF DOCKETS

Fiscal year	Total cases terminated after trial		Percentage of terminated cases requiring less than 6 months for the interval from filing to disposition		Percentage of terminated cases requiring less than 3 months for the interval from issue to trial	
	Iowa (northern)	National [1]	Iowa (northern)	National [1]	Iowa (northern)	National [1]
1945	8	2,883	50.0	29.6	62.5	32.4
1946	20	3,421	55.0	29.3	50.0	33.4
1947	18	3,963	44.4	31.9	33.3	32.1
1948	23	4,548	30.4	26.7	39.1	27.4
1949	18	4,847	55.6	28.5	61.1	28.2
1950	30	5,020	63.3	22.3	53.3	24.5
1951	22	5,085	59.1	20.8	63.6	21.9
1952	37	4,767	59.5	21.1	37.8	22.8
1953	24	4,941	25.0	19.2	29.2	21.2
1954	26	4,825	26.9	17.1	23.1	19.1

[1] This column includes all districts having purely Federal jurisdiction: 86 districts for 1949 and thereafter; 84 districts before 1949.

The period from filing to disposition is the elapsed time from commencement to termination of the case. The period from issue to trial is the time from filing of the answer to the date trial is begun.

Land condemnation, habeas corpus, and forfeiture cases are not included because they are not representative of the time required for the general run of civil cases.

TABLE 4.—*Cases commenced per judgeship in the northern district of Iowa and in 86 districts in the fiscal year 1954 by nature of suit*

	Cases commenced per judgeship		National average: Cases terminated 1954: Percentage reaching trial [1]
	Iowa (northern)	86 districts	
			Percent
Civil cases:			
Total cases	185	210	11
United States cases	111	84	9
Private cases	74	127	13
United States plaintiff	107	65	6
Land condemnation		3	
Fair Labor Standards Act		2	11
Other enforcement suits	1	3	13
Food and Drug Act	15	5	1
Liquor laws		3	28
Other forfeitures and penalties	3	4	8
Negotiable instruments	45	25	1
Other contracts	38	13	4
Other United States plaintiff	5	6	7
United States defendant	4	19	16
Enjoin Federal agencies		2	18
Habeas corpus		4	12
Tort Claims Act		5	17
Tax suits	3	4	19
Other United States defendant	1	4	16
Federal question	10	33	11
Copyright	1	1	6
Employers Liability Act		6	22
Fair Labor Standards Act	1	1	12
Habeas corpus	2	3	4
Jones Act		10	5
Miller Act		2	12
Patent	4	3	17
Other Federal question	2	9	10
Diversity of citizenship	64	81	15
Insurance	3	14	14
Other contracts	8	15	16
Real property	9	3	17
Personal injury (motor vehicle)	33	30	14
Personal injury (other negligence)	5	14	16
Other diversity	6	5	14
Admiralty		13	8
Criminal cases	98	172	9

[1] This column shows, by nature of suit, the percentage of all cases which were terminated after reaching the trial stage in the 86 United States district courts having purely Federal jurisdiction. Because these figures have been relatively stable over a period of years, they are valuable in assessing the relative burden on each judge of the caseloads given in the other 2 columns in terms of the probability that a given number of cases in each category will actually reach trial.

Southern District of Iowa

TABLE 1.—*Cases commenced and terminated, by fiscal year, and pending at the end of each year, beginning with 1941*

TOTAL CIVIL CASES

Fiscal year	Commenced	Terminated	Pending June 30	Fiscal year	Commenced	Terminated	Pending June 30
1941	113	109	84	1949	213	185	117
1942	126	135	75	1950	225	198	144
1943	117	132	60	1951	162	182	124
1944	127	149	38	1952	217	174	167
1945	318	299	57	1953	275	246	196
1946	564	513	108	1954	266	285	177
1947	240	239	109	First half of 1955	127	148	156
1948	139	159	89				

UNITED STATES CIVIL CASES (UNITED STATES A PARTY)

[OPA cases are in parentheses [1]]

Fiscal year	Commenced	Terminated	Pending June 30	Fiscal year	Commenced	Terminated	Pending June 30
1941	58	59	46	1949	131 (49)	119	68
1942	59	72	33	1950	132 (59)	112	88
1943	88 (32)	90	31	1951	79 (12)	111	56
1944	93 (53)	105	19	1952	99 (14)	85	70
1945	292 (244)	273	38	1953	148	136	82
1946	514 (470)	479	73	1954	152	153	81
1947	178 (108)	193	58	First half of 1955	51	80	52
1948	86 (17)	88	56				

PRIVATE CIVIL CASES

Fiscal year	Commenced	Terminated	Pending June 30	Fiscal year	Commenced	Terminated	Pending June 30
1941	55	50	38	1949	82	66	49
1942	67	62	42	1950	93	86	56
1943	29	42	29	1951	83	71	68
1944	34	44	19	1952	118	89	97
1945	26	26	19	1953	127	110	114
1946	50	34	35	1954	114	132	96
1947	62	46	51	First half of 1955	76	68	104
1948	53	71	33				

CRIMINAL CASES

[Cases transferred are not included in "Commenced" and "Terminated" columns]

Fiscal year	Commenced	Terminated	Pending June 30	Fiscal year	Commenced	Terminated	Pending June 30
1941	116	104	28	1949	83	88	6
1942	90	100	18	1950	82	70	20
1943	81	87	12	1951	105	108	17
1944	66	69	9	1952	85	90	10
1945	86	86	9	1953	69	61	19
1946	80	72	17	1954	58	69	4
1947	105	103	11	First half of 1955	37	30	8
1948	71	69	10				

[1] OPA cases, including rent control, are separately listed because from 1945 to 1947 they constituted a large proportion of all civil cases commenced, although they required on the average a relatively small proportion of court time per case for disposition during those years. They are included in the figure which they follow.

TABLE 2.—*Cases commenced per judgeship*

TOTAL CIVIL CASES

Fiscal year	Iowa (southern)		National average: Cases commenced per judgeship [1]	Fiscal year	Iowa (southern)		National average: Cases commenced per judgeship [1]
	Number of judgeships	Cases commenced per judgeship			Number of judgeships	Cases commenced per judgeship	
1941	1	113	164	1948	1	139	205
1942	1	126	168	1949	1	213	238
1943	1	117	158	1950	1	225	222
1944	1	127	160	1951	1	162	206
1945	1	318	295	1952	1	217	236
1946	1	564	321	1953	1	275	261
1947	1	240	271	1954	1	266	210

UNITED STATES CIVIL CASES (UNITED STATES A PARTY)

Fiscal year	Iowa (southern), cases commenced per judgeship	National average: Cases commenced per judgeship [1]	Fiscal year	Iowa (southern), cases commenced per judgeship	National average: Cases commenced per judgeship [1]
1941	58	83	1948	86	87
1942	59	91	1949	131	118
1943	88	100	1950	132	109
1944	93	113	1951	79	93
1945	292	238	1952	99	110
1946	514	251	1953	148	115
1947	178	162	1954	152	84

PRIVATE CIVIL CASES

Fiscal year	Iowa (southern), cases commenced per judgeship	National average: Cases commenced per judgeship [1]	Fiscal year	Iowa (southern), cases commenced per judgeship	National average: Cases commenced per judgeship [1]
1941	55	82	1948	53	117
1942	67	77	1949	82	121
1943	29	58	1950	93	113
1944	34	56	1951	83	111
1945	26	57	1952	118	126
1946	50	70	1953	127	146
1947	62	109	1954	114	127

CRIMINAL CASES

Fiscal year	Iowa (southern), cases commenced per judgeship	National average: Cases commenced per judgeship [1]	Fiscal year	Iowa (southern), cases commenced per judgeship	National average: Cases commenced per judgeship [1]
1941	116	165	1948	71	167
1942	90	174	1949	83	177
1943	81	190	1950	82	169
1944	66	211	1951	105	180
1945	86	209	1952	85	177
1946	90	171	1953	69	171
1947	105	173	1954	58	172

[1] This column includes 86 districts for 1949 and thereafter; 84 districts before 1949.

Because caseload figures are given to the nearest whole number, it is not always possible to derive exact totals by adding component parts.

TABLE 3.—*Time intervals in civil cases terminated in which a trial was held, for each fiscal year beginning with 1945*

CURRENCY OF DOCKETS

Fiscal year	Total cases terminated after trial		Percentage of terminated cases requiring less than 6 months for the interval from filing to disposition		Percentage of terminated cases requiring less than 3 months for the interval from issue to trial	
	Iowa (southern)	National [1]	Iowa (southern)	National [1]	Iowa (southern)	National [1]
1945	11	2,883	36.4	29.6	27.3	32.4
1946	18	3,421	61.1	29.3	61.1	33.4
1947	23	3,963	30.4	31.9	17.4	32.1
1948	19	4,545	57.9	26.7	31.6	27.4
1949	16	4,847	50.0	28.5	25.0	28.2
1950	22	5,020	31.8	22.3	27.3	24.5
1951	32	5,085	15.6	20.8	12.5	21.9
1952	26	4,767	15.4	21.1	30.8	22.8
1953	24	4,941	12.5	19.2	4.2	21.2
1954	22	4,825	13.6	17.1	9.1	19.1

[1] This column includes all districts having purely Federal jurisdiction: 86 districts for 1949 and thereafter; 84 districts before 1949.

The period from filing to disposition is the elapsed time from commencement to termination of the case. The period from issue to trial is the time from filing of the answer to the date trial is begun.

Land condemnation, habeas corpus, and forfeiture cases are not included because they are not representative of the time required for the general run of civil cases.

TABLE 4.—*Cases commenced per judgeship in the southern district of Iowa and in 86 districts in the fiscal year 1954 by nature of suit*

	Cases commenced per judgeship		National average: Cases terminated 1954; percentage reaching trial [1]
	Iowa (southern)	86 districts	
			Percent
Civil cases:			
Total cases	266	210	11
United States cases	152	84	9
Private cases	114	127	13
United States plaintiff	139	65	6
Land condemnation	1	3	
Fair Labor Standards Act	1	2	11
Other enforcement suits		3	13
Food and Drug Act	25	5	1
Liquor laws		3	28
Other forfeitures and penalties	6	4	8
Negotiable instruments	68	25	1
Other contracts	35	13	4
Other United States plaintiff	3	6	7
United States defendant	13	19	16
Enjoin Federal agencies	1	2	18
Habeas corpus	4	4	12
Tort Claims Act	1	5	17
Tax suits	5	4	19
Other United States defendant	2	4	16
Federal question	19	33	11
Copyright	1	1	6
Employers' Liability Act	4	6	22
Fair Labor Standards Act	1	1	12
Habeas corpus	2	3	4
Jones Act		10	5
Miller Act		2	12
Patent	3	3	17
Other Federal question	8	9	10
Diversity of citizenship	95	81	15
Insurance	15	14	14
Other contracts	17	15	16
Real property	1	3	17
Personal injury (motor vehicle)	39	30	14
Personal injury (other negligence)	16	14	16
Other diversity	7	5	14
Admiralty		13	8
Criminal cases	58	172	9

[1] This column shows, by nature of suit, the percentage of all cases which were terminated after reaching the trial stage in the 86 United States district courts having purely Federal jurisdiction. Because these figures have been relatively stable over a period of years, they are valuable in assessing the relative burden on each judge of the caseloads given in the other two columns in terms of the probability that a given number of cases in each category will actually reach trial.

APPENDIX 8

THE JUDICIAL BUSINESS OF THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF KANSAS

The State of Kansas consists of a single judicial district which for many years was presided over by a single district judge. On October 16, 1945, an additional temporary judicial position was authorized and was filled on November 27, 1945, by the appointment of Judge Arthur J. Mellott, but during the next summer Kansas again became a 1-judge district with the death of Judge Helvering on July 5, 1946. By the act of August 3, 1949, a permanent additional judgeship was created and Judge Delmas C. Hill was the appointee. In April 1954 the Judicial Conference of the United States recommended the creation of a third judgeship for the State and reaffirmed the recommendation at its September 1954 meeting.

Since the year 1941 the number of civil cases commenced annually in the district of Kansas has almost tripled as shown by the figures in table 1 attached hereto. For the last 7 fiscal years the total civil cases commenced and terminated each year and the number pending at the end of the year have been as follows:

Total civil cases

Fiscal year	Commenced	Terminated	Pending on June 30
1948	491	581	219
1949	603	530	292
1950	625	557	360
1951	554	578	336
1952	555	505	386
1953	661	584	463
1954	792	665	590

The increase in private civil cases, which on the average consume much more judicial time per case than suits to which the United States is a party, is chiefly responsible for the overall increase during the period. This is shown in the following table.

Private civil cases

Fiscal year	Commenced	Terminated	Pending on June 30
1948	156	185	116
1949	200	180	136
1950	284	216	204
1951	239	237	206
1952	241	221	226
1953	320	238	308
1954	395	314	389

From the steady rise in the number of pending cases as shown by these tables it is apparent that some congestion is developing from the large caseload. This is borne out by the figures on the time required to dispose of cases by trial. In the fiscal year 1954 the median time interval from filing to disposition of civil cases terminated by trial in the district of Kansas was 15.4 months compared with the national median of 13.5 months and the period from issue to trial was 8.7 months compared to the national median of 8.1 months. These intervals for the district of Kansas are the largest in the 10-year period covered by table 3 attached.

The civil caseload of 396 cases commenced per judge in this district in the fiscal year 1954 was the sixth largest of the 86 districts having only Federal jurisdiction and compares with the national average of 210 such cases. The difference was largely in diversity of citizenship cases and in habeas corpus proceedings commenced by petitioners in the Leavenworth Penitentiary. These habeas corpus matters on the average do not require much time for hearing but often the decision of the constitutional questions involved and the writing of opinions are burdensome. On the other hand the diversity cases weigh heavily upon the time of the judge because a considerable proportion of these cases reach trial. During the fiscal year 1954 the number of diversity of citizenship cases commenced per judge in Kansas was 170 or over twice the national average of 81 such cases per judge.

In addition to this heavy civil caseload the district has a heavier than average load of criminal cases. Excluding the immigration cases which occur only in volume in the five districts touching the Mexican border and which by and large require very little time per case for disposition, the criminal caseload per judgeship of 133 cases in Kansas is considerably larger than the national average of 103 criminal cases. Although the number of criminal cases in 1954 in Kansas was considerably larger than in 1953, there has been no steady increase and the criminal caseload has remained at approximately the same high level for the last 6 years. Because of the priority which is given to the criminal dockets, they are in good condition. On June 30, 1954, there were 84 cases pending on the criminal docket, one-fifth of which involved fugitive defendants who could not be tried.

The number of civil and criminal cases commenced during the first half of the fiscal year 1955 was about the same as in the same period of the fiscal year 1954. The number of civil and criminal cases commenced and terminated during the first half of the fiscal years 1954 and 1955 and pending at the end of those periods were as follows:

Fiscal year	Commenced	Terminated	Pending at end of the first half
Total civil cases:			
First half of 1954	379	269	573
First half of 1955	381	355	616
Private civil cases:			
First half of 1954	193	120	381
First half of 1955	157	166	390
Criminal cases:			
First half of 1954	141	78	108
First half of 1955	148	133	98

While population per judge is by itself not a good criterion of the number of judges needed in a particular district, it is a factor which should be taken into consideration. Kansas with 2 district judges had a population, according to the 1950 census, of 1,905,299. The population of other States having 3 judges is as follows:

	Population, 1950 Census
Wisconsin	3,434,575
South Carolina	2,117,027
West Virginia	2,005,552
Arkansas	1,909,511
Oregon	1,521,341
Delaware	318,085

The population of Kansas was slightly less than that of 3 of the States listed and larger than of 2 of these States. Washington with a population only slightly larger than Kansas has 4 judges and Oklahoma, also with a population slightly larger, has 5 judges. The figures for these States are as follows:

State	Number of judges	Population, 1950 census
Washington	4	2,378,963
Oklahoma	5	2,233,351

Complete statistical information concerning the judicial business of this district for the last 14 years is attached.

Respectfully submitted.

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Attorney, Division of Procedural Studies and Statistics,
Administrative Office of the United States Courts.

FEBRUARY 18, 1955.

District of Kansas

Table 1.—*Cases commenced and terminated, by fiscal year, and pending at the end of each year, beginning with 1941*

TOTAL CIVIL CASES

Fiscal year	Commenced	Terminated	Pending June 30	Fiscal year	Commenced	Terminated	Pending June 30
1941	291	306	181	1948	491	581	219
1942	324	340	165	1949	603	530	292
1943	337	277	225	1950	625	557	360
1944	333	336	222	1951	554	578	336
1945	916	822	316	1952	555	505	386
1946	1,234	1,094	456	1953	661	584	463
1947	573	720	309	1954	792	665	590

UNITED STATES CIVIL CASES (UNITED STATES A PARTY)

[OPA cases are in parentheses [1]]

Fiscal year	Commenced	Terminated	Pending June 30	Fiscal year	Commenced	Terminated	Pending June 30
1941	169	142	73	1948	335 (51)	396	103
1942	211	194	90	1949	403 (95)	350	156
1943	178 (18)	213	155	1950	341 (34)	341	156
1944	279 (99)	269	165	1951	315 (25)	341	130
1945	857 (673)	759	263	1952	314 (20)	284	169
1946	1,119 (922)	1,028	354	1953	341 (25)	346	155
1947	391 (212)	581	164	1954	397	351	201

PRIVATE CIVIL CASES

Fiscal year	Commenced	Terminated	Pending June 30	Fiscal year	Commenced	Terminated	Pending June 30
1941	122	164	108	1948	156	185	116
1942	113	146	75	1949	200	180	136
1943	59	64	70	1950	284	216	204
1944	54	67	57	1951	239	237	206
1945	59	63	53	1952	241	221	226
1946	115	66	102	1953	320	238	308
1947	182	139	145	1954	395	314	389

CRIMINAL CASES

[Cases transferred are not included in "Commenced" and "Terminated" columns]

Fiscal year	Commenced	Terminated	Pending June 30	Fiscal year	Commenced	Terminated	Pending June 30
1941	232	228	76	1948	159	202	5
1942	176	174	78	1949	286	230	46
1943	421	367	132	1950	247	233	49
1944	244	353	23	1951	214	188	76
1945	300	273	50	1952	226	216	80
1946	261	268	43	1953	190	215	46
1947	253	255	47	1954	266	234	84

[1] OPA cases, including rent control, are separately listed because from 1945 to 1947 they constituted a large proportion of all civil cases commenced, although they required on the average a relatively small proportion of court time per case for disposition during those years. They are included in the figure which they follow. In 1952 Defense Production Act cases are included.

TABLE 2.—*Cases commenced per judgeship*

TOTAL CIVIL CASES

Fiscal year	Kansas			National average: Cases commenced per judgeship [1]
	Number of judgeships	Cases, total	Commenced per judgeship	
1941	1	291	291	164
1942	1	324	324	168
1943	1	337	337	158
1944	1	333	333	169
1945	1	916	916	295
1946	2	1,234	617	321
1947	1	573	573	271
1948	1	491	491	205
1949	1	603	603	238
1950	2	625	313	222
1951	2	554	277	204
1952	2	555	278	236
1953	2	661	331	261
1954	2	792	396	210

UNITED STATES CIVIL CASES (UNITED STATES A PARTY)

Fiscal year	Kansas		National average: Cases commenced per judgeship [1]	Fiscal year	Kansas		National average: Cases commenced per judgeship [1]
	Cases commenced	Cases commenced per judgeship			Cases commenced	Cases commenced per judgeship	
1941	169	169	83	1948	335	335	87
1942	211	211	91	1949	403	403	118
1943	278	278	100	1950	341	171	109
1944	279	279	113	1951	315	158	93
1945	857	857	238	1952	314	157	110
1946	1,119	560	251	1953	341	171	115
1947	391	391	162	1954	397	199	84

PRIVATE CIVIL CASES

Fiscal year	Kansas		National average: Cases commenced per judgeship [1]	Fiscal year	Kansas		National average: Cases commenced per judgeship [1]
	Cases commenced	Cases commenced per judgeship			Cases commenced	Cases commenced per judgeship	
1941	122	122	82	1948	156	156	117
1942	113	113	77	1949	200	200	121
1942	59	59	58	1950	284	142	113
1944	54	54	56	1951	239	120	111
1945	59	59	57	1952	241	121	126
1946	115	58	70	1953	320	160	146
1947	182	182	109	1954	395	198	127

See footnotes at end of table, p. 81.

TABLE 2.—*Cases commenced per judgeship*—Continued

CRIMINAL CASES

Fiscal year	Kansas		National average: Cases commenced per judgeship [1]	Fiscal year	Kansas		National average: Cases commenced per judgeship [1]
	Cases commenced	Cases commenced per judgeship			Cases commenced	Cases commenced per judgeship	
1941	232	232	165	1948	159	159	167
1942	176	176	174	1949	286	286	177
1943	421	421	190	1950	247	124	169
1944	244	244	211	1951	214	107	180
1945	300	300	209	1952	226	113	177
1946	261	131	171	1953	190	95	171
1947	253	253	173	1954	266	133	172

[1] This column includes 86 districts for 1949 and thereafter; 84 districts before 1949.

Because caseload figures are given to the nearest whole number, it is not always possible to derive exact totals by adding component parts.

There were 2 judges in this district from the date of Judge Mellott's commission November 27, 1945, to the date of Judge Helvering's death, July 5, 1946. Accordingly, the caseload statistics are based on 2 judges in 1946 and 1 judge for the years prior to 1946 and for 1947, 1948 and 1949. Judge Hill's appointment in October 1949 again gave the district two judges for the fiscal year 1950 and thereafter.

TABLE 3.—*Time intervals in civil cases terminated in which a trial was held for each fiscal year beginning with 1945*

CURRENCY OF DOCKETS

Fiscal year	Total cases terminated after trial		Median time intervals (in months) [1]			
			Filing to disposition		Issue to trial	
	Kansas	National [2]	Kansas	National [2]	Kansas	National [2]
1945	65	2,883	5.4	9.0	2.8	5.3
1946	72	3,421	7.3	8.9	3.3	5.0
1947	50	3,963	6.9	9.0	3.0	5.1
1948	64	4,548	9.0	9.9	3.0	5.8
1949	59	4,647	6.0	10.4	3.3	5.9
1950	51	5,020	8.6	11.2	3.4	6.7
1951	75	5,085	9.9	12.2	4.6	7.3
1952	49	4,767	12.5	12.1	3.1	7.0
1953	62	4,941	9.6	12.4	5.0	7.4
1954	74	4,825	15.4	13.5	8.7	8.1

[1] The median time interval from filing to disposition is computed by arranging all cases terminated during the year, in which a trial was held, in order according to the time from filing to disposition, from the lowest to the highest. The median time is then the time required for the middle case of the series or if there is an even number of cases, it is the average time for the 2 middle cases. The same procedure is followed in determining the median time from issue to trial. The median instead of the average is used because it prevents distortion of the result by a few nontypical long or short cases. No median has been computed where there were less than 25 cases.

The period from filing to disposition is the elapsed time from commencement to termination of the case. The period from issue to trial is the time from filing of the answer to the date trial is begun.

Land condemnation, habeas corpus, and forfeiture cases are not included because they are not representative of the time required for the general run of civil cases.

[2] These columns show the number of cases and the median time intervals for 86 districts for 1949 and thereafter; 84 districts before 1949.

90005—57 S. Rept., 84–2, vol. 5——20e

TABLE 4.—*Cases commenced per judgeship in the District of Kansas and in 86 districts in the fiscal year 1954 by nature of suit*

	Cases commenced per judgeship		National average: Cases terminated 1954: Percentage reaching trial [1]
	Kansas	86 districts	
Civil cases:			*Percent*
Total cases	396	210	11
United States cases	199	84	9
Private cases	197	127	13
United States plaintiff	88	65	6
Land condemnation	11	3	
Fair Labor Standards Act		2	11
Other enforcement suits	2	3	13
Food and Drug Act	11	5	1
Liquor laws	2	3	28
Other forfeitures and penalties	11	4	8
Negotiable instruments	32	25	1
Other contracts	15	13	4
Other United States plaintiff	6	6	7
United States defendant	111	19	16
Enjoin Federal agencies	5	2	18
Habeas corpus	77	4	12
Tort Claims Act	26	5	17
Tax suits	3	4	19
Other United States defendant	1	4	16
Federal question	28	33	11
Copyright	2	1	6
Employers' Liability Act	4	6	22
Fair Labor Standards Act	2	1	12
Habeas corpus	10	3	4
Jones Act		10	5
Miller Act	1	2	12
Patent	3	3	17
Other Federal question	7	9	10
Diversity of citizenship	170	81	15
Insurance	19	14	14
Other contracts	37	15	16
Real property	19	3	17
Personal injury (motor vehicle)	63	30	14
Personal injury (other negligence)	24	14	16
Other diversity	9	5	14
Admiralty	1	13	8
Criminal cases	133	172	9

[1] This column shows, by nature of suit, the percentage of all cases which were terminated after reaching the trial stage in the 86 United States district courts having purely Federal jurisdiction. Because these figures have been relatively stable over a period of years, they are valuable in assessing the relative burden on each judge of the caseloads given in the other 2 columns in terms of the probability that a given number of cases in each category will actually reach trial.

APPENDIX 9

THE JUDICIAL BUSINESS OF THE UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF LOUISIANA

The eastern district of Louisiana was provided with a second judicial position in 1938. In that year 344 civil cases were filed (230 private cases, and 114 to which the United States was a party), and 261 criminal cases. Sixteen years later in the fiscal year 1954 there were 970 civil cases commenced (810 private and 160 United States cases) and 328 criminal cases. This is an increase of 182 percent in civil cases and 26 percent in criminal cases, but there has been no increase in the number of judges during this period.

In 1954 the caseload of 485 civil cases filed per judge was the second highest nationally, exceeded only by that in the southern district of Mississippi. The national average was 210 civil cases per judge. The private civil caseload of 405 cases per judge was the largest and was over 3 times the national average of 127 such cases.

For the last 3 years the civil caseload per judgeship has been in excess of 400 and the pending caseload has mounted steadily to 1,506 on June 30, 1954, of which number 1,268 were private civil cases. The pending caseload per judgeship of total civil cases and private civil cases is the largest nationally and exceeds even the pending caseloads per judgeship in the southern district of New York.

The increase in business over the past decade has been principally in the private civil litigation and more particularly in admiralty and diversity of citizenship cases. The increase in the port facilities in the city of New Orleans has brought with it increased maritime litigation and the caseload of private admiralty suits in the eastern district of Louisiana in 1954 was 110 compared to the national average of 13 such cases. Jones Act cases involving personal injury to seamen numbered 31 per judge compared with 10 per judge nationally.

Diversity of citizenship cases commenced in the eastern district of Louisiana were 243 per judge compared with the national average in 1954 of 81 per judge. Over half of these cases were suits for personal injuries arising out of an automobile accident, the exact number per judge being 133 compared to the national average of 30 such cases. The Louisiana direct-action statute, permitting a suit directly against the defendant's insurer, which was recently upheld by the Supreme Court of the United States, is one of the causes for this very heavy burden of accident litigation.

As a result of the increased caseloads the median time interval for the disposition of cases tried has been increasing. In the fiscal year 1954 the median interval from filing to disposition of civil cases terminated after trial was 15.9 months compared to the national median of 13.5 months and the median interval from issue to trial was 11.5 months compared to the national median of 8.1 months.

By rule the criminal dockets are given priority and for this reason the criminal dockets in this district are current.

In April 1954 the Judicial Conference of the United States recommended the creation of an additional judicial position for this district and reaffirmed that recommendation in September 1954.

The trend since that time has shown a continuation of the heavy civil caseloads. The number of total civil, private civil, and criminal cases commenced and terminated during the first half of the fiscal years 1954 and 1955 and the number pending at the end of the first half of each fiscal year is as follows:

Fiscal year	Commenced	Terminated	Pending at end of first half
Total civil:			
First half of 1954	502	390	1,459
First half of 1955	527	475	1,558
Private civil:			
First half of 1954	431	330	1,191
First half of 1955	428	361	1,335
Criminal:			
First half of 1954	141	146	95
First half of 1955	122	152	94

Complete statistical tables concerning the civil and criminal business of this district for the last 14 fiscal years is attached.

Respectfully submitted.

JOSEPH F. SPANIOL, Jr.,
Attorney, Division of Procedural Studies and Statistics,
Administrative Office of the United States Courts.

FEBRUARY 23, 1955.

EASTERN DISTRICT OF LOUISIANA

TABLE 1.—*Cases commenced and terminated, by fiscal year, and pending at the end of each year, beginning with 1941*

TOTAL CIVIL CASES

Fiscal year	Commenced	Terminated	Pending June 30	Fiscal year	Commenced	Terminated	Pending June 30
1941	313	369	373	1949	724	507	1,034
1942	283	330	326	1950	621	583	1,072
1943	311	285	352	1951	611	611	1,082
1944	317	300	369	1952	816	740	1,158
1945	723	443	649	1953	953	764	1,347
1946	745	758	636	1954	970	811	1,506
1947	574	528	682	First half of 1955	527	475	1,558
1948	563	428	817				

UNITED STATES CIVIL CASES (UNITED STATES A PARTY)

[OPA cases are in parentheses [1]]

Fiscal year	Commenced	Terminated	Pending June 30	Fiscal year	Commenced	Terminated	Pending June 30
1941	116	106	64	1949	260 (92)	185	313
1942	111	102	73	1950	145 (31)	218	240
1943	151 (36)	127	97	1951	139 (27)	176	233
1944	186 (37)	141	142	1952	240 (46)	223	220
1945	549 (293)	287	404	1953	199 (5)	162	257
1946	521 (321)	567	358	1954	160	179	238
1947	288 (131)	325	321	First half of 1955	99	144	223
1948	119 (21)	202	238				

PRIVATE CIVIL CASES

Fiscal year	Commenced	Terminated	Pending June 30	Fiscal year	Commenced	Terminated	Pending June 30
1941	227	263	309	1949	464	322	721
1942	172	228	253	1950	476	365	832
1943	160	158	255	1951	472	425	879
1944	131	159	227	1952	576	517	938
1945	174	156	245	1953	754	602	1,090
1946	224	191	278	1954	810	632	1,268
1947	286	203	361	First half of 1955	428	361	1,335
1948	444	226	579				

CRIMINAL CASES

[Cases transferred are not included in "Commenced" and "Terminated" columns]

Fiscal year	Commenced	Terminated	Pending June 30	Fiscal year	Commenced	Terminated	Pending June 30
1941	302	323	33	1949	310	337	94
1942	345	291	87	1950	417	413	116
1943	353	376	64	1951	325	346	94
1944	437	369	132	1952	341	374	66
1945	370	354	148	1953	406	382	92
1946	325	341	132	1954	328	309	125
1947	300	272	152	First half of 1955	122	152	94
1948	284	316	121				

[1] OPA cases, including rent control, are separately listed because from 1945 to 1947 they constituted a large proportion of all civil cases commenced, although they required on the average a relatively small proportion of court time per case for disposition during those years. They are included in the figure which they follow.

TABLE 2.—*Cases commenced per judgeship*

TOTAL CIVIL CASES

Fiscal year	Louisiana (eastern)			National average: Cases commenced per judgeship [1]
	Number of judgeships	Cases commenced		
		Total	Per judgeship	
1941	2	343	172	164
1942	2	283	142	168
1943	2	311	156	158
1944	2	317	159	169
1945	2	723	362	295
1946	2	745	373	321
1947	2	574	287	271
1948	2	563	282	205
1949	2	724	362	238
1950	2	621	311	222
1951	2	611	306	204
1952	2	816	408	236
1953	2	953	477	261
1954	2	970	485	210

UNITED STATES CIVIL CASES (UNITED STATES A PARTY)

Fiscal year	Louisiana (eastern)		National average: Cases commenced per judgeship [1]	Fiscal year	Louisiana (eastern)		National average: Cases commenced per judgeship [1]
	Cases commenced	Cases commenced per judgeship			Cases commenced	Cases commenced per judgeship	
1941	116	58	83	1948	119	60	87
1942	111	56	91	1949	260	130	118
1943	151	76	100	1950	145	73	109
1944	186	93	113	1951	139	70	93
1945	549	275	238	1952	240	120	110
1946	521	261	251	1953	199	100	115
1947	288	144	162	1954			

PRIVATE CIVIL CASES

Fiscal year	Louisiana (eastern)		National average: Cases commenced per judgeship [1]	Fiscal year	Louisiana (eastern)		National average: Cases commenced per judgeship [1]
	Cases commenced	Cases commenced per judgeship			Cases commenced	Cases commenced per judgeship	
1941	227	114	82	1948	444	222	117
1942	172	86	77	1949	464	232	121
1943	160	80	58	1950	476	238	113
1944	131	66	56	1951	472	236	111
1945	174	87	57	1952	576	288	126
1946	224	112	70	1953	754	377	146
1947	286	143	109	1954	810	405	127

See footnotes at end of table, p. 86.

TABLE 2.—*Cases commenced per judgeship*—Continued

CRIMINAL CASES

Fiscal year	Louisiana (eastern)		National average: Cases commenced per judgeship [1]	Fiscal year	Louisiana (eastern)		National average: Cases commenced per judgeship [1]
	Cases commenced	Cases commenced per judgeship			Cases commenced	Cases commenced per judgeship	
1941	302	151	165	1948	284	142	167
1942	345	173	174	1949	310	155	177
1943	353	177	190	1950	417	209	169
1944	437	219	211	1951	325	163	180
1945	370	185	209	1952	341	171	177
1946	325	163	171	1953	406	203	171
1947	300	150	173	1954	328	164	172

[1] This column includes 86 districts for 1949 and thereafter; 84 districts before 1949.

Because caseload figures are given to the nearest whole number, it is not always possible to derive exact totals by adding component parts.

TABLE 3.—*Time intervals in civil cases terminated in which a trial was held, for each fiscal year beginning with 1945*

CURRENCY OF DOCKETS

Fiscal year	Total cases terminated after trial		Median time intervals (in months) [1]			
			Filing to disposition		Issue to trial	
	Louisiana (eastern)	National [2]	Louisiana (eastern)	National [2]	Louisiana (eastern)	National [2]
1945	25	2,883	18.5	9.0	11.9	5.3
1946	21	3,421	----------	8.9	----------	5.0
1947	28	3,963	18.4	9.0	8.4	5.1
1948	25	4,548	10.3	9.9	6.1	5.8
1949	29	4,847	13.1	10.4	9.0	5.9
1950	27	5,020	20.1	11.2	17.5	6.7
1951	57	5,085	18.6	12.2	13.5	7.3
1952	59	4,767	12.1	12.1	9.2	7.0
1953	64	4,941	14.9	12.4	7.7	7.4
1954	71	4,825	15.9	13.5	11.5	8.1

[1] The median time interval from filing to disposition is computed by arranging all cases terminated during the year, in which a trial was held, in order according to the time from filing to disposition, from the lowest to the highest. The median time is then the time required for the middle case of the series or if there is an even number of cases, it is the average time for the 2 middle cases. The same procedure is followed in determining the median time from issue to trial. The median instead of the average is used because it prevents distortion of the result by a few nontypical long or short cases. No median has been computed where there were less than 25 cases.

The period from filing to disposition is the elapsed time from commencement to termination of the case. The period from issue to trial is the time from filing of the answer to the date trial is begun.

Land condemnation, habeas corpus, and forfeiture cases are not included because they are not representative of the time required for the general run of civil cases.

[2] These columns show the number of cases and the median time intervals for 86 districts for 1949 and thereafter; 84 districts before 1949.

TABLE 4.—*Cases commenced per judgeship in the eastern district of Louisiana and in 86 districts in the fiscal year 1954 by nature of suit*

	Cases commenced per judgeship		National average: Cases terminated 1954: Percentage reaching trial [1]
	Louisiana (eastern)	86 districts	
Civil cases:			*Percent*
Total cases	485	210	11
United States cases	80	84	9
Private cases	405	127	13
United States plaintiff	55	65	6
Land condemnation	1	3	
Fair Labor Standards Act	2	2	11
Other enforcement suits	2	3	13
Food and Drug Act	9	5	1
Liquor laws	1	3	28
Other forfeitures and penalties	8	4	8
Negotiable instruments	20	25	1
Other contracts	11	13	4
Other United States plaintiff	2	6	7
United States defendant	26	19	16
Enjoin Federal agencies	6	2	18
Habeas corpus	3	4	12
Tort Claims Act	2	5	17
Tax suits	7	4	19
Other United States defendant	8	4	16
Federal question	53	33	11
Copyright		1	6
Employers' Liability Act	5	6	22
Fair Labor Standards Act	2	1	12
Habeas corpus		3	4
Jones Act	31	10	5
Miller Act	2	2	12
Patent		3	17
Other Federal question	15	9	10
Diversity of citizenship	243	81	15
Insurance	7	14	14
Other contracts	35	15	16
Real property	7	3	17
Personal injury (motor vehicle)	133	30	14
Personal injury (other negligible)	51	14	16
Other diversity	12	5	14
Admiralty	110	13	8
Criminal cases	164	172	9

[1] This column shows, by nature of suit, the percentage of all cases which were terminated after reaching the trial stage in the 86 United States district courts having purely Federal jurisdiction. Because these figures have been relatively stable over a period of years, they are valuable in assessing the relative burden on each judge of the caseloads given in the other 2 columns in terms of the probability that a given number of cases in each category will actually reach trial.

EASTERN DISTRICT OF LOUISIANA

The heavy caseload in this district indicates the urgent need for additional judgepower. The Judicial Conference has recommended the creation of an additional judgeship. In order to bring the dockets to a point where cases can be tried within 6 months of filing, the Statistics Committee believes that 2 permanent judges are needed plus some additional service from a roving judge for both districts. The reason for this lies in the tremendous increase in the number of civil cases in the last 15 years. A caseload per judge of 172 civil cases filed in 1941 was above the national average. By 1945 this caseload had doubled and since that time has increased another 50 percent. In 1955 it was the largest in the entire United States and was 2½ times the national average (table 3).

In spite of the able and effective service of the 2 judges, terminations have been less than cases filed in every year since 1946 and the pending civil cases have in-

creased from 373 to 1,586. In the first half of the fiscal year 1956, the increase in both cases filed and cases pending has continued. Table 1, attached, gives the figures for 15 years.

A large part of the increase in private cases, which has been greater proportionately than in Government cases, is the result of Louisiana's direct action statute, permitting a suit directly against the defendant's insurer in damage cases.

With the addition of 2 permanent judgeships and a roving judgeship on the basis of the 1955 filings, the caseload per judge would have been as follows:

Caseload per judge on basis of 1955 filings

	Number of judges	Total civil	United States civil	Private civil	Criminal without immigration
Louisiana (E):					
Present basis	2	532	75	457	148
With additional judges	4½	236	33	203	66
86 districts	228	212	86	126	104

The caseload per judge of cases filed for the last 5 years compared to the national average has been as follows:

Fiscal year	Number of judgeships	Total civil cases		Private civil cases		Criminal cases (less immigration)	
		Louisiana (eastern)	National average	Louisiana (eastern)	National average	Louisiana (eastern)	National average
1951	2	306	204	236	111	158	106
1952	2	408	236	288	126	170	112
1953	2	477	261	377	146	197	114
1954	2	485	210	405	127	150	103
1955	2	532	212	457	126	148	104

A normal pending civil caseload of 150 cases per judge for 4½ judges would be 675 cases. The pending figures as of December 31, 1955, were 1,710 civil cases of which 1,484 were private cases.

Recent increases in the median periods from filing to disposition and from issue to trial which, for 1955 were 18.3 months and 12.7 months, respectively, indicate growing docket congestion. Judge Wright has written that "on the basis of comparative statistics, this district would require at least 2 additional judges to call cases for trial within 6 months of filing."

The average dispositions per judge have been very large, and may be attributed in some degree to an effective use of pretrial procedure. The figures for the last 2 years have been as follows:

	All civil	United States	Private
Average dispositions per judge:			
1954	406	90	316
1955	492	86	406
Total	898	176	722
Average per judge	449	88	361

The strong uptrend in the private cases and in particular motor vehicle personal injury cases, has caused the congestion in this district. Two permanent judges and a roving judge for the whole State on a permanent basis would appear to be fully justified.

Respectfully submitted.

WILL SHAFROTH.

FEBRUARY 29, 1956.

Eastern District of Louisiana

Table 1.—*Civil cases commenced and terminated, by fiscal year, and pending at the end of each year beginning with 1941*

TOTAL CIVIL CASES

Fiscal year	Commenced	Terminated	Pending June 30	Fiscal year	Commenced	Terminated	Pending June 30
1941	343	369	373	1949	724	507	1,034
1942	283	330	326	1950	621	583	1,072
1943	311	285	352	1951	611	601	1,082
1944	317	300	369	1952	816	740	1,158
1945	723	443	649	1953	953	764	1,347
1946	745	758	636	1954	970	811	1,506
1947	574	528	682	1955	1,063	983	1,586
1948	563	428	817				

PRIVATE CIVIL CASES

Fiscal year	Commenced	Terminated	Pending June 30	Fiscal year	Commenced	Terminated	Pending June 30
1941	227	263	309	1949	464	322	721
1942	172	228	253	1950	476	365	832
1943	160	158	255	1951	472	425	879
1944	131	159	227	1952	576	517	938
1945	174	156	245	1953	754	602	1,090
1946	224	191	278	1954	810	632	1,268
1947	286	203	361	1955	914	812	1,370
1948	444	226	579				

Table 2.—*United States civil cases and criminal cases commenced and terminated, by fiscal year, and pending at the end of each year beginning with 1941*

UNITED STATES CIVIL CASES (UNITED STATES A PARTY)

[Price and rent-control cases are in parentheses [1]]

Fiscal year	Commenced	Terminated	Pending June 30	Fiscal year	Commenced	Terminated	Pending June 30
1941	116	106	64	1949	260 (92)	185	313
1942	111	102	73	1950	145 (30)	218	240
1943	151 (36)	127	97	1951	139 (27)	176	203
1944	186 (37)	141	142	1952	240 (46)	223	220
1945	549 (293)	287	404	1953	199 (5)	162	257
1946	521 (320)	567	358	1954	160	179	238
1947	288 (130)	325	321	1955	149	171	216
1948	119 (21)	202	238				

CRIMINAL CASES

Cases transferred are not included in "Commenced" and "Terminated" columns]

Fiscal year	Commenced	Terminated	Pending June 30	Fiscal year	Commenced	Terminated	Pending June 30
1941	302	323	33	1949	310	337	94
1942	345	291	87	1950	417	413	116
1943	353	376	64	1951	325	346	94
1944	437	369	132	1952	341	374	66
1945	370	354	148	1953	406	382	92
1946	325	341	132	1954	328	309	125
1947	300	272	152	1955	296	336	101
1948	284	316	121				

[1] Price- and rent-control cases are separately listed from 1943 to 1955. In many of these years they constituted a large proportion of all civil cases commenced, although they required on the average a relatively small proportion of court time per case for disposition. They are included in the figure which they follow.

TABLE 3.—*Cases commenced per judgeship*

Fiscal year	Number of judgeships	Total civil cases		Private civil cases		Criminal cases (less immigration) [1]	
		Louisiana (eastern)	National average [2]	Louisiana (eastern)	National average [2]	Louisiana (eastern)	National average [2]
1941	2	172	164	114	82	151	153
1942	2	142	168	86	77	171	161
1943	2	156	158	80	58	175	174
1944	2	159	169	66	56	216	184
1945	2	362	295	87	57	182	176
1946	2	373	321	112	70	161	142
1947	2	287	271	143	109	144	134
1948	2	282	205	222	117	138	123
1949	2	362	238	232	121	152	123
1950	2	311	222	238	113	208	116
1951	2	306	204	236	111	158	106
1952	2	408	236	288	126	170	112
1953	2	477	261	377	146	197	114
1954	2	485	210	405	127	150	103
1955	2	532	212	457	126	148	104

[1] Immigration cases have been eliminated from this table because they occur in volume in only 5 districts on the Mexican border and because the average judicial time per case for their disposition is small.
[2] This column includes 86 districts for 1949 and thereafter; 84 districts before 1949.

TABLE 4.—*Time elapsing in civil cases tried* [1]

Fiscal year	Number of cases tried	Median interval in months from filing to disposition		Median interval in months from issue to trial	
		Louisiana (eastern)	National median	Louisiana (eastern)	National median
1945	25	18.5	9.0	11.9	5.3
1946	21		8.9		5.0
1947	28	18.4	9.0	8.4	5.1
1948	25	10.3	9.9	6.1	5.8
1949	29	13.1	10.4	9.0	5.9
1950	27	20.1	11.2	17.5	6.7
1951	57	18.6	12.2	13.5	7.3
1952	59	12.1	12.1	9.2	7.0
1953	64	14.9	12.4	7.7	7.4
1954	71	15.9	13.5	11.5	8.1
1955	74	18.3	14.6	12.7	9.1

[1] The median time interval in months is computed for the civil cases in which a trial was held, which were terminated during the year, excluding land condemnation, habeas corpus and forfeiture proceedings. No median interval is shown for the years 1945–52 where less than 25 cases were terminated after trial. For the year 1953 and subsequent years, where there were less than 25 cases terminated after trial, a median is listed with an asterisk on the basis of the number of cases terminated after trial for the last 2 years, provided there were 25 such cases for the 2 years.

TABLE 5.—*Cases commenced per judgeship in this district and in 86 districts, by nature of suit, fiscal year 1955*

	Louisiana (eastern)	86 districts
Civil cases:		
Total cases	532	212
United States cases	75	86
Private cases	457	126
United States cases:		
United States plaintiff	59	68
Land condemnation	1	3
Fair Labor Standards Act	2	2
Other enforcement suits	2	3
Food and Drug Act	5	5
Liquor laws	1	2
Other forfeitures and penalties	2	4
Negotiable instruments	27	25
Other contracts	11	16
Other United States plaintiff	11	8
United States defendant	16	17
Enjoin Federal agencies	3	3
Habeas corpus	1	4
Tort Claims Act	3	4
Tax suits	7	4
Other United States defendant	3	3
Private cases:		
Federal question	68	31
Copyright	3	1
Employers' Liability Act	4	6
Fair Labor Standards Act	2	1
Habeas corpus	3	3
Jones Act	43	9
Miller Act	2	1
Patent	2	3
Other Federal question	10	7
Diversity of citizenship	290	84
Insurance	10	14
Other contracts	28	15
Real property	13	3
Personal injury:		
Motor vehicle	158	32
Other	61	15
Other diversity	11	5
Admiralty	110	11
Criminal cases (less immigration)	148	104

TABLE 6.—*Civil and criminal trials commenced, by fiscal year*

Fiscal year	Total trials commenced	Civil			Criminal		
		Total	Nonjury	Jury	Total	Nonjury	Jury
1951	66	60	38	22	6	3	3
1952	68	57	31	26	11	4	7
1953	107	79	40	39	28	6	22
1954	105	88	49	39	17	7	10
1955	80	71	37	34	9	4	5

Civil and criminal trials commenced per judgeship

Fiscal year	Number of judgeships	Total trials		Civil		Criminal	
		Louisiana (eastern)	National average [1]	Louisiana (eastern)	National average [1]	Louisiana (eastern)	National average [1]
1951	2	33	39	30	28	3	11
1952	2	34	40	29	27	6	13
1953	2	54	44	40	29	14	15
1954	2	53	40	44	25	9	15
1955	2	40	41	36	26	5	15

[1] This column includes 86 districts.

TABLE 7.—*Civil cases pending per judgeship on June 30, 1955*

Nature of suit	Cases pending per judgeship	
	Louisiana (eastern)	National average
Total civil cases	793	258
United States civil cases	108	89
Private civil cases	685	169
United States plaintiff	50	58
Land condemnation	6	13
Antitrust	1	
Other enforcement suits	3	8
Forfeitures and penalties	4	4
Negotiable instruments	16	13
Other contracts	11	13
Other United States plaintiff	11	7
United States defendant	58	31
Tort Claims Act	5	7
Tax suits	28	8
Other United States defendant	26	16
Federal question	103	47
Antitrust	3	2
Copyright	2	2
Federal Employees Liability Act	4	8
Jones Act	66	18
Patent	5	5
Other Federal question	25	12
Diversity of citizenship	381	98
Insurance	12	10
Other contracts	36	20
Real property	12	2
Personal injury:		
Motor vehicle	157	34
Other	77	21
Other diversity	88	11
Admiralty	202	24

Age of civil cases pending on June 30, 1955

Jurisdiction	Total pending	Age of civil cases pending						
		Less than 6 months	6 months to 1 year	1 to 2 years	2 to 3 years	3 to 4 years	4 to 5 years	5 years and over
Total civil cases	1,586	458	294	303	196	80	56	199
United States civil	216	36	43	41	37	20	10	29
United States plaintiff	100	23	29	17	13	8	5	5
United States defendant	116	13	14	24	24	12	5	24
Private civil	1,370	422	251	262	159	60	46	170
Federal question	205	65	36	43	39	9	6	7
Diversity	762	253	145	113	65	27	20	139
Admiralty	403	104	70	106	55	24	20	24

APPENDIX 10

JUNE 9, 1955.

Hon. HARLEY M. KILGORE,
Chairman, Committee on the Judiciary,
United States Senate, Washington, D. C.

DEAR MR. CHAIRMAN: I am writing to express my interest in S. 1256, providing for additional district and circuit court judges in the Federal court system. I should like particularly to invite to the attention of your committee the fact that there is only one Federal district judge for the district of New Hampshire at the present time, and to suggest that the committee give consideration to the creation of a second judgeship for that district.

I should like to point out that the Federal court in New Hampshire is required to sit in widely disbursed geographical localities within the district, which presents a difficult problem for the one judge now available. In addition, the committee's attention is invited to the fact that some of the neighboring Federal court jurisdictions have badly congested dockets. It is my belief that the assignment of a second judge to the district of New Hampshire, who could be available on occasion to assist in the neighboring jurisdictions, would contribute materially to the efficient operation of the Federal courts in the New England area.

In the interest of facilitating and expediting the administration of justice under our Federal court system, I would very much appreciate it if your committee would give serious consideration to the inclusion of this second Federal judgeship for the district of New Hampshire.

Sincerely yours,

STYLES BRIDGES.

JUNE 10, 1955.

Hon. HARLEY M. KILGORE,
Chairman, Senate Judiciary Committee,
United States Senate, Washington, D. C.

DEAR MR. CHAIRMAN: I wish to invite the attention of the committee to the judicial situation in New Hampshire, and respectfully request that the committee give consideration to the creation of a second judgeship for the district of New Hampshire in connection with its consideration of S. 1256.

The creation of an additional judgeship in New Hampshire will have a wholesome, beneficial effect on the administration of justice in the State and in the first judicial district for several reasons.

First, the creation of an additional judgeship in New Hampshire will reduce the likelihood that our present district judge will fall behind in consideration of his docket, a possibility which must be considered in view of the steadily increasing number of cases in the district and in the Nation.

Second, creation of an additional judgeship will insure that at all times there will be a district judge available to the people of the State when needed. At present the State is without the services of any Federal judgepower whatsoever when the judge is absent from the State. The Senate Judiciary Committee, in

the past, has expressed the view that no district in the United States should be without the services of a Federal district judge at all times. This is a sound principle of justice.

Third, an additional judgeship in New Hampshire and other one-judge States will create a pool of judges that can be called upon to help out in those districts which have a heavy load of pending cases. In this connection, where the only judge in a State finds himself disqualified in a particular case, a judge from another district must be sent into the State to handle that case. That results in delays to the litigants and extra costs of the taxpayers.

Judge John Biggs, Jr., chief judge of the third judicial circuit, testified before the subcommittee on behalf of the Judicial Conference and indicated his belief that creation of a minimum of two district judgeships in each State would be a wholesome refinement of our judicial system. He stated his general support for this proposal.

In addition there are several specific reasons which justify creation of an additional judgeship in New Hampshire. One is the growth of the judicial business in the district. More than five times as many cases were pending as of June 30, 1954 as were pending June 30, 1948. Furthermore, the Federal court in New Hampshire is required to sit at widely dispersed geographical locations within the district, which presents a difficult problem for the one judge now available.

I believe it is also proper to point out that New Hampshire is centrally located among the three States of northern New England, each of which has only one Federal district judge, and relatively closer to the busier judicial districts to the south. The creation of an additional judgeship in New Hampshire would provide the services of an additional judge who is geographically able to serve a wide area without excessive traveling.

For these reasons, I hope the committee and the Congress will approve legislation creating an additional judgeship in New Hampshire.

Yours sincerely,

NORRIS COTTON.

JUNE 10, 1955.

Hon. THOMAS C. HENNINGS, Jr.,
Chairman, Subcommittee on Improvements in Judicial Machinery,
Senate Committee on the Judiciary, Washington, D. C.

DEAR SENATOR HENNINGS: I have noted with interest the attention your subcommittee is giving to the appointment of additional circuit and district judges to ease the current heavy backlog of court cases and thereby achieve greater efficiency in administering justice.

I favor an additional judgeship for each of the 5 States which do not have more than 1 judicial district. The State of Vermont is one of these, so I have some knowledge of conditions favoring this change.

The facts as presented at these hearings, in addition to the report of the full Judiciary Committee to the Senate of the 83d Congress, speak strongly in support of this change.

I am not advocating this increase on sectional grounds. A strong case for 2 Vermont judges was made at your hearings by Judge John Biggs, Jr., the Chief Judge of the Third Judicial District, Pennsylvania, when he singled out Vermont as an example where added efficiency would be gained by having 2 judges in each State.

I think Judge Biggs was on sound ground when he said the caseload in Vermont would not keep two judges busy full time, but if Vermont had a second judge "he could certainly be kept busy in New York or I would personally undertake to keep him very busy in the eastern district of Pennsylvania." In other words, by providing another judge for the States with only one judicial district at present, it would be possible to create a pool of judges available for service in overburdened districts in nearby States.

One other argument should be noted, namely that no State should ever be left without a Federal judge. This has frequently happened in Vermont when our district judge has been called to the bench in New York City. With 2 judges, 1 Vermont judge would always be available for Connecticut, New York, or Pennsylvania.

I bring these observations to your attention and request that they be made a part of the record of the hearings.

Sincerely yours,

GEORGE D. AIKEN.

District of Maine

TABLE 1.—*Cases commenced and terminated, by fiscal year, and pending at the end of each year, beginning with 1941*

TOTAL CIVIL CASES

Fiscal year	Commenced	Terminated	Pending June 30	Fiscal year	Commenced	Terminated	Pending June 30
1941	79	82	69	1949	167	140	208
1942	126	72	123	1950	232	181	259
1943	119	61	181	1951	148	92	315
1944	124	137	168	1952	147	146	316
1945	188	141	215	1953	169	112	373
1946	237	187	265	1954	184	122	435
1947	181	207	239	3 quarters of 1955	111	124	422
1948	95	153	181				

UNITED STATES CIVIL CASES (UNITED STATES A PARTY)

[OPA cases are in parentheses [1]]

Fiscal year	Commenced	Terminated	Pending June 30	Fiscal year	Commenced	Terminated	Pending June 30
1941	42	47	22	1949	123 (27)	95	148
1942	72	29	65	1950	180 (18)	120	208
1943	81 (4)	25	121	1951	104 (8)	53	259
1944	107 (21)	97	131	1952	99 (28)	90	268
1945	160 (84)	124	167	1953	94 (10)	70	292
1946	198 (123)	161	204	1954	57	48	301
1947	146 (98)	185	165	3 quarters of 1955	53	54	300
1948	59 (6)	104	120				

PRIVATE CIVIL CASES

Fiscal year	Commenced	Terminated	Pending June 30	Fiscal year	Commenced	Terminated	Pending June 30
1941	37	35	47	1949	44	45	60
1942	54	43	58	1950	52	61	51
1943	38	36	60	1951	44	39	56
1944	17	40	37	1952	48	56	48
1945	28	17	48	1953	75	42	81
1946	39	26	61	1954	127	74	134
1947	35	22	74	3 quarters of 1955	58	70	122
1948	36	49	61				

CRIMINAL CASES

[Cases transferred are not included in "Commenced" and "Terminated" columns]

Fiscal year	Commenced	Terminated	Pending June 30	Fiscal year	Commenced	Terminated	Pending June 30
1941	169	174	53	1949	63	80	19
1942	220	140	133	1950	70	72	16
1943	256	205	184	1951	84	81	18
1944	244	348	80	1952	60	47	30
1945	145	159	66	1953	65	71	26
1946	90	100	56	1954	73	79	16
1947	97	107	46	3 quarters of 1955	41	45	10
1948	66	77	33				

[1] OPA cases, including rent control, are separately listed because from 1945 to 1947 they constituted a large portion of all civil cases commenced, although they required on the average a relatively small proportion of court time per case for disposition during those years. They are included in the figure which they follow.

TABLE 2.—*Cases commenced per judgeship*

TOTAL CIVIL CASES

Fiscal year	Maine		National average: Cases commenced per judgeship [1]	Fiscal year	Maine		National average: Cases commenced per judgeship [1]
	Number of judgeships	Cases commenced per judgeship			Number of judgeships	Cases commenced per judgeship	
1941	1	79	164	1948	1	95	205
1942	1	126	168	1949	1	167	238
1943	1	119	158	1950	1	232	222
1944	1	124	169	1951	1	148	204
1945	1	188	295	1952	1	147	236
1946	1	237	321	1953	1	169	261
1947	1	181	271	1954	1	184	210

UNITED STATES CIVIL CASES (UNITED STATES A PARTY)

Fiscal year	Maine, cases commenced per judgeship	National average: Cases commenced per judgeship [1]	Fiscal year	Maine, cases commenced per judgeship	National average: Cases commenced per judgeship [1]
1941	42	83	1948	59	87
1942	72	91	1949	123	118
1943	81	100	1950	180	109
1944	107	113	1951	104	93
1945	160	238	1952	99	110
1946	198	251	1953	94	115
1947	146	162	1954	57	84

PRIVATE CIVIL CASES

Fiscal year	Maine, cases commenced per judgeship	National average: Cases commenced per judgeship [1]	Fiscal year	Maine, cases commenced per judgeship	National average: Cases commenced per judgeship [1]
1941	37	82	1948	36	117
1942	54	77	1949	44	121
1943	38	58	1950	52	113
1944	17	56	1951	44	111
1945	28	57	1952	48	126
1946	39	70	1953	75	146
1947	35	109	1954	127	127

CRIMINAL CASES

Fiscal year	Maine, cases commenced per judgeship	National average: Cases commenced per judgeship [1]	Fiscal year	Maine, cases commenced per judgeship	National average: Cases commenced per judgeship [1]
1941	169	165	1948	66	167
1942	220	174	1949	63	177
1943	256	190	1950	70	169
1944	244	211	1951	84	180
1945	145	209	1952	60	177
1946	90	171	1953	65	171
1947	97	173	1954	73	172

[1] This column includes 86 districts for 1949 and thereafter; 84 districts before 1949.

Because caseload figures are given to the nearest whole number, it is not always possible to derive exact totals by adding component parts.

TABLE 3.—*Time intervals in civil cases terminated in which a trial was held, for each fiscal year beginning with 1945*

CURRENCY OF DOCKETS

Fiscal year	Total cases terminated after trial		Percentage of terminated cases requiring less than 6 months for the interval from filing to disposition		Percentage of terminated cases requiring less than 3 months for the interval from issue to trial	
	Maine	National [1]	Maine	National [1]	Maine	National [1]
1945	2	2,883	50.0	29.6	100.0	32.4
1946	4	3,421	50.0	29.3	50.0	33.4
1947	5	3,963	20.0	31.9	60.0	32.1
1948	6	4,548	16.7	26.7	16.7	27.4
1949	6	4,847	----------	28.5	33.3	28.2
1950	8	5,020	----------	22.3	50.0	24.5
1951	5	5,055	20.0	20.8	20.0	21.9
1952	6	4,767	16.7	21.1	16.7	22.8
1953	1	4,941	----------	19.2	----------	21.2
1954	2	4,825	50.0	17.1	----------	19.1

[1] This column includes all districts having purely Federal jurisdiction: 86 districts for 1949 and thereafter; 84 districts before 1949.

The period from filing to disposition is the elapsed time from commencement to termination of the case. The period from issue to trial is the time from filing of the answer to the date trial is begun.

Land condemnation, habeas corpus and forfeiture cases are not included because they are not representative of the time required for the general run of civil cases.

TABLE 4.—*Cases commenced per judgeship in the district of Maine and in 86 districts in the fiscal year 1954, by nature of suit*

	Cases commenced per judgeship		National average: Cases terminated 1954: Percentage reaching trial [1]
	Maine	86 districts	
Civil cases:			*Percent*
Total cases	184	210	11
United States cases	57	84	9
Private cases	127	127	13
United States plaintiff	45	65	6
Land condemnation	3	3	
Fair Labor Standards Act	11	2	11
Other enforcement suits	8	3	13
Food and Drug Act	2	5	1
Liquor laws		3	26
Other forfeitures and penalties	3	4	8
Negotiable instruments	12	25	1
Other contracts	2	13	4
Other United States plaintiff	4	6	7
United States defendant	12	19	16
Enjoin Federal agencies	1	2	18
Habeas corpus	1	4	12
Tort Claims Act	5	5	17
Tax suits	4	4	19
Other United States defendant	1	4	16
Federal question	75	33	11
Copyright	4	1	6
Employers' Liability Act	3	6	22
Fair Labor Standards Act		1	12
Habeas corpus	16	3	4
Jones Act	13	10	5
Miller Act	37	2	12
Patent		3	17
Other Federal question	2	9	10
Diversity of citizenship	35	81	15
Insurance	1	14	14
Other contracts	5	15	16
Real property		3	17
Personal injury (motor vehicle)	22	30	14
Personal injury (other negligence)	9	14	16
Other diversity	1	5	14
Admiralty	14	13	8
Criminal cases	73	172	9

[1] This column shows, by nature of suit, the percentage of all cases which were terminated after reaching the trial stage in the 86 United States district courts having purely Federal jurisdiction. Because these figures have been relatively stable over a period of years, they are valuable in assessing the relative burden on each judge of the caseloads given in the other 2 columns in terms of the probability that a given number of cases in each category will actually reach trial.

District of New Hampshire

TABLE 1.—*Cases commenced and terminated, by fiscal year, and pending at the end of each year, beginning with 1941*

TOTAL CIVIL CASES

Fiscal year	Commenced	Terminated	Pending June 30	Fiscal year	Commenced	Terminated	Pending June 30
1941	76	82	44	1949	68	64	64
1942	84	65	63	1950	83	69	78
1943	59	62	60	1951	65	72	71
1944	46	53	53	1952	75	77	69
1945	112	106	59	1953	238	81	226
1946	203	182	80	1954	159	80	305
1947	84	98	66	3 quarters of 1955	115	248	172
1948	82	58	60				

UNITED STATES CIVIL CASES (UNITED STATES A PARTY)

[OPA cases are in parentheses [1]]

Fiscal year	Commenced	Terminated	Pending June 30	Fiscal year	Commenced	Terminated	Pending June 30
1941	48	26	32	1949	46 (14)	37	47
1942	44	27	49	1950	37 (9)	38	46
1943	35 (3)	34	50	1951	14 (1)	28	32
1944	32 (9)	37	45	1952	27 (9)	24	35
1945	103 (61)	97	51	1953	186 (3)	39	182
1946	179 (154)	164	66	1954	92	28	246
1947	63 (25)	82	47	3 quarters of 1955	71	198	119
1948	29 (14)	38	38				

PRIVATE CIVIL CASES

Fiscal year	Commenced	Terminated	Pending June 30	Fiscal year	Commenced	Terminated	Pending June 30
1941	28	26	12	1949	22	27	17
1942	40	38	14	1950	46	31	32
1943	24	28	10	1951	51	44	39
1944	14	16	8	1952	48	53	34
1945	9	9	8	1953	52	42	44
1946	24	18	14	1954	67	52	59
1947	21	16	19	3 quarters of 1955	44	50	53
1948	23	20	22				

CRIMINAL CASES

[Cases transferred are not included in "Commenced" and "Terminated" columns]

Fiscal year	Commenced	Terminated	Pending June 30	Fiscal year	Commenced	Terminated	Pending June 30
1941	58	58	5	1949	37	27	14
1942	38	40	3	1950	18	25	8
1943	65	63	5	1951	13	20	5
1944	69	66	8	1952	25	28	5
1945	35	39	4	1953	37	32	11
1946	39	39	4	1954	36	31	15
1947	43	44	6	3 quarters of 1955	29	33	10
1948	28	29	4				

[1] OPA cases, including rent control, are separately listed because from 1945 to 1947 they constituted a large proportion of all civil cases commenced, although they required on the average a relatively small proportion of court time per case for disposition during those years. They are included in the figure which they follow.

TABLE 2.—*Cases commenced per judgeship*

TOTAL CIVIL CASES

Fiscal year	New Hampshire		National average: Cases commenced per judgeship [1]	Fiscal year	New Hampshire		National average: Cases commenced per judgeship [1]
	Number of judgeships	Cases commenced per judgeship			Number of judgeships	Cases commenced per judgeship	
1941	1	76	164	1948	1	82	205
1942	1	84	168	1949	1	68	238
1943	1	80	158	1950	1	83	222
1944	1	46	169	1951	1	65	204
1945	1	112	295	1952	1	75	236
1946	1	203	321	1953	1	238	261
1947	1	84	271	1954	1	159	210

UNITED STATES CIVIL CASES (UNITED STATES A PARTY)

Fiscal year	New Hampshire, cases commenced per judgeship	National average: Cases commenced per judgeship [1]	Fiscal year	New Hampshire, cases commenced per judgeship	National average: Cases commenced per judgeship [1]
1941	48	83	1948	29	87
1942	44	91	1949	46	118
1943	35	100	1950	37	109
1944	32	113	1951	14	93
1945	103	238	1952	27	110
1946	179	251	1953	186	115
1947	63	162	1954	92	84

PRIVATE CIVIL CASES

Fiscal year	New Hampshire, cases commenced per judgeship	National average: Cases commenced per judgeship [1]	Fiscal year	New Hampshire, cases commenced per judgeship	National average: Cases commenced per judgeship [1]
1941	28	82	1948	23	117
1942	40	77	1949	22	121
1943	24	58	1950	46	113
1944	14	56	1951	51	111
1945	9	57	1952	48	126
1946	24	70	1953	52	146
1947	21	109	1954	67	127

CRIMINAL CASES

Fiscal year	New Hampshire, cases commenced per judgeship	National average: Cases commenced per judgeship [1]	Fiscal year	New Hampshire, cases commenced per judgeship	National average: Cases commenced per judgeship [1]
1941	58	165	1948	28	167
1942	38	174	1949	37	177
1943	65	190	1950	18	169
1944	69	211	1951	13	180
1945	35	209	1952	25	177
1946	39	171	1953	37	171
1947	43	173	1954	36	172

[1] This column includes 86 districts for 1949 and thereafter; 84 districts before 1949.

Because caseload figures are given to the nearest whole number, it is not always possible to derive exact totals by adding component parts.

TABLE 3.—*Time intervals in civil cases terminated in which a trial was held for each fiscal year beginning with 1945*

CURRENCY OF DOCKETS

Fiscal year	Total cases terminated after trial		Percentage of terminated cases requiring less than 6 months for the interval from filing to disposition		Percentage of terminated cases requiring less than 3 months for the interval from issue to trial	
	New Hampshire	National [1]	New Hampshire	National [1]	New Hampshire	National [1]
1945	6	2,883	66.7	29.6	66.7	32.4
1946	7	3,421	28.6	29.3	42.9	33.4
1947	9	3,963	22.2	31.9	66.7	32.1
1948	11	4,548	36.4	26.7	36.4	27.4
1949	12	4,847	50.0	28.5	58.3	28.2
1950	11	5,020	27.3	22.2	27.3	24.5
1951	14	5,085	----------	20.8	7.1	21.9
1952	6	4,767	16.7	21.1	----------	22.8
1953	10	4,941	30.0	19.2	----------	21.2
1954	9	4,858	11.1	17.1	----------	19.1

[1] This column includes all districts having purely Federal jurisdiction: 86 districts for 1949 and thereafter; 84 districts before 1949.

The period from filing to disposition is the elapsed time for commencement to termination of the case. The period from issue to trial is the time from filing of the answer to the date trial is begun.

Land condemnation, habeas corpus, and forfeiture cases are not included because they are not representative of the time required for the general run of civil cases.

TABLE 4.—*Cases commenced per judgeship in the District of New Hampshire and in 86 districts in the fiscal year 1954 by nature of suit*

	Cases commenced per judgeship		National average: Cases terminated 1954: Percentage reaching trial [1]
	New Hampshire	86 districts	
Civil cases:			*Percent*
Total cases	150	210	11
United States cases	92	84	9
Private cases	67	127	13
United States plaintiff	90	65	6
Land condemnation	5	3	
Fair Labor Standards Act	2	2	11
Other enforcement suits	1	3	13
Food and Drug Act	1	5	1
Liquor laws	2	3	28
Other forfeitures and penalties		4	8
Negotiable instruments	50	25	1
Other contracts	21	13	4
Other United States plaintiff	8	6	7
United States defendant	2	19	16
Enjoin Federal agencies		2	18
Habeas corpus		4	12
Tort Claims Act	2	5	17
Tax suits		4	19
Other United States defendant		4	16
Federal question	6	33	11
Copyright		1	6
Employers Liability Act		6	22
Fair Labor Standards Act	3	1	12
Habeas corpus		3	4
Jones Act		10	5
Miller Act	2	2	12
Patent		3	17
Other Federal question	1	9	10
Diversity of citizenship	61	81	15
Insurance	1	14	14
Other contracts	5	15	16
Real property		3	17
Personal injury (motor vehicle)	43	30	14
Personal injury (other negligible)	11	14	16
Other diversity	1	5	14
Admiralty		13	8
Criminal cases	36	172	9

[1] This column shows, by nature of suit, the percentage of all cases which were terminated after reaching the trial stage in the 86 United States district courts having purely Federal jurisdiction. Because these figures have been relatively stable over a period of years, they are valuable in assessing the relative burden on each judge of the caseloads given in the other 2 columns in terms of the probability that a given number of cases in each category will actually reach trial.

District of Rhode Island

TABLE 1.—*Cases commenced and terminated, by fiscal year, and pending at the end of each year, beginning with 1941*

TOTAL CIVIL CASES

Fiscal year	Commenced	Terminated	Pending June 30	Fiscal year	Commenced	Terminated	Pending June 30
1941	105	92	91	1949	146	237	184
1942	139	96	134	1950	145	168	161
1943	106	101	139	1951	166	164	163
1944	103	57	185	1952	138	147	154
1945	158	114	229	1953	222	185	191
1946	240	175	294	1954	139	125	205
1947	176	159	311	3 quarters of 1955	133	109	229
1948	128	164	275				

UNITED STATES CIVIL CASES (UNITED STATES A PARTY)

[OPA cases are in parentheses [1]]

Fiscal year	Commenced	Terminated	Pending June 30	Fiscal year	Commenced	Terminated	Pending June 30
1941	58	55	32	1949	84 (37)	146	62
1942	73	44	61	1950	74 (23)	71	65
1943	76 (8)	45	92	1951	106 (43)	96	75
1944	78 (36)	38	132	1952	71 (25)	84	62
1945	119 (77)	85	166	1953	143 (61)	112	93
1946	170 (98)	132	204	1954	44	65	72
1947	77 (26)	114	167	3 quarters of 1955	58	62	68
1948	51 (11)	94	124				

PRIVATE CIVIL CASES

Fiscal year	Commenced	Terminated	Pending June 30	Fiscal year	Commenced	Terminated	Pending June 30
1941	47	37	59	1949	62	91	123
1942	66	52	73	1950	71	97	96
1943	30	56	47	1951	60	68	88
1944	25	19	53	1952	67	63	92
1945	39	29	63	1953	79	73	98
1946	70	43	90	1954	95	60	133
1947	99	45	144	3 quarters of 1955	75	47	161
1948	77	70	151				

CRIMINAL CASES

[Cases transferred are not included in "Commenced" and "Terminated" columns]

Fiscal year	Commenced	Terminated	Pending June 30	Fiscal year	Commenced	Terminated	Pending June 30
1941	77	88	28	1949	64	54	30
1942	90	78	40	1950	54	42	42
1943	135	120	55	1951	17	17	40
1944	178	171	62	1952	28	33	35
1945	124	126	60	1953	58	38	54
1946	80	80	60	1954	71	99	27
1947	36	57	39	3 quarters of 1955	36	45	17
1948	27	46	20				

[1] OPA cases, including rent control, are separately listed because from 1945 to 1947 they constituted a large proportion of all civil cases commenced, although they required on the average a relatively small proportion of court time per case for disposition during those years. They are included in the figure which they follow.

TABLE 2.—*Cases commenced per judgeship*

TOTAL CIVIL CASES

Fiscal year	Rhode Island		National average: Cases commenced per judgeship [1]	Fiscal year	Rhode Island		National average: Cases commenced per judgeship [1]
	Number of judgeships	Cases commenced per judgeship			Number of judgeships	Cases commenced per judgeship	
1941	1	105	164	1948	1	128	205
1942	1	139	168	1949	1	146	238
1943	1	106	158	1950	1	145	222
1944	1	103	169	1951	1	166	204
1945	1	158	295	1952	1	138	236
1946	1	240	321	1953	1	222	261
1947	1	176	271	1954	1	139	210

UNITED STATES CIVIL CASES (UNITED STATES A PARTY)

Fiscal year	Rhode Island	National average: Cases commenced per judgeship [1]	Fiscal year	Rhode Island	National average: Cases commenced per judgeship [1]
	Cases commenced per judgeship			Cases commenced per judgeship	
1941	58	83	1948	51	87
1942	73	91	1949	84	118
1943	76	100	1950	74	109
1944	78	113	1951	106	93
1945	119	238	1952	71	110
1946	170	251	1953	143	116
1947	77	162	1954	44	84

PRIVATE CIVIL CASES

Fiscal year	Rhode Island	National average: Cases commenced per judgeship [1]	Fiscal year	Rhode Island	National average: Cases commenced per judgeship [1]
	Cases commenced per judgeship			Cases commenced per judgeship	
1941	47	82	1948	77	117
1942	66	77	1949	62	121
1943	30	58	1950	71	113
1944	25	56	1951	60	111
1945	39	57	1952	67	126
1946	70	70	1953	79	146
1947	99	109	1954	95	127

CRIMINAL CASES

Fiscal year	Rhode Island	National average: Cases commenced per judgeship [1]	Fiscal year	Rhode Island	National average: Cases commenced per judgeship [1]
	Cases commenced per judgeship			Cases commenced per judgeship	
1941	77	165	1948	27	167
1942	90	174	1949	64	177
1943	135	190	1950	54	169
1944	178	211	1951	17	180
1945	124	209	1952	28	177
1946	80	171	1953	66	171
1947	36	173	1954	71	173

[1] This column includes 86 districts for 1949 and thereafter; 84 districts before 1949.

Because caseload figures are given to the nearest whole number, it is not always possible to derive exact totals by adding component parts.

TABLE 3.—*Time intervals in civil cases terminated in which a trial was held, for each fiscal year beginning with 1945*

CURRENCY OF DOCKETS

Fiscal year	Total cases terminated after trial		Percentage of terminated cases requiring less than 6 months for the interval from filing to disposition		Percentage of terminated cases requiring less than 3 months for the interval from issue to trial	
	Rhode Island	National [1]	Rhode Island	National [1]	Rhode Island	National [1]
1945	6	2,883	66.7	29.6	83.3	32.4
1946	11	3,421	18.2	29.3	54.5	33.4
1947	18	3,963	27.8	31.9	11.1	32.1
1948	15	4,548	13.3	26.7	6.7	27.4
1949	14	4,847	35.7	28.5	35.7	28.2
1950	17	5,020	11.8	22.3	5.9	24.5
1951	20	5,085	15.0	20.8	10.0	21.9
1952	15	4,787	----------	21.1	13.3	22.8
1953	21	4,941	14.3	19.2	14.3	21.2
1954	15	4,825	13.3	17.1	----------	19.1

[1] This column includes all districts having purely Federal jurisdiction: 86 districts for 1949 and thereafter; 84 districts before 1949.

The period from filing to disposition is the elapsed time from commencement to termination of the case. The period from issue to trial is the time from filing of the answer to the date trial is begun.

Land condemnation, habeas corpus, and forfeiture cases are not included because they are not representative of the time required for the general run of civil cases.

TABLE 4.—*Cases commenced per judgeship in the district of Rhode Island and in 86 districts in the fiscal year 1954 by nature of suit*

	Cases commenced per judgeship		National average: Cases terminated 1954: Percentage reaching trial [1]
	Rhode Island	86 districts	
Civil cases:			*Percent*
Total cases	139	210	11
United States cases	44	84	9
Private cases	95	127	13
United States plaintiff	34	65	6
Land condemnation	1	3	
Fair Labor Standards Act	3	2	11
Other enforcement suits	12	3	13
Food and Drug Act	5	5	1
Liquor laws		3	28
Other forfeitures and penalties	1	4	8
Negotiable instruments	3	25	1
Other contracts	2	13	4
Other United States plaintiff	7	6	7
United States defendant	10	19	16
Enjoin Federal agencies	6	2	18
Habeas corpus		4	12
Tort Claims Act		5	17
Tax suits	4	4	19
Other United States defendant		4	16
Federal question	27	33	11
Copyright	1	1	6
Employers' Liability Act	3	6	22
Fair Labor Standards Act		1	12
Habeas corpus	1	3	4
Jones Act		10	5
Miller Act	1	2	12
Patent	5	3	17
Other Federal question	13	9	10
Diversity of citizenship	65	81	15
Insurance	5	14	14
Other contracts	21	15	16
Real property		3	17
Personal injury (motor vehicle)	28	30	14
Personal injury (other negligence)	7	14	16
Other diversity	4	5	14
Admiralty	3	13	8
Criminal cases	71	172	9

[1] This column shows, by nature of suit, the percentage of all cases which were terminated after reaching the trial stage in the 86 United States district courts having purely Federal jurisdiction. Because these figures have been relatively stable over a period of years, they are valuable in assessing the relative burden on each judge of the caseloads given in the other 2 columns in terms of the probability that a given number of cases in each category will actually reach trial.

District of Vermont

TABLE 1.—*Cases commenced and terminated, by fiscal year, and pending at the end of each year, beginning with 1941*

TOTAL CIVIL CASES

Fiscal year	Commenced	Terminated	Pending June 30	Fiscal year	Commenced	Terminated	Pending June 30
1941	49	82	76	1949	52	48	70
1942	69	60	85	1950	61	46	85
1943	44	49	80	1951	83	65	103
1944	66	75	71	1952	144	148	99
1945	140	132	79	1953	153	133	119
1946	264	261	82	1954	202	151	170
1947	101	96	87	3 quarters of 1955	146	147	169
1948	54	75	66				

UNITED STATES CIVIL CASES (UNITED STATES A PARTY)

[OPA cases are in parentheses [1]]

Fiscal year	Commenced	Terminated	Pending June 30	Fiscal year	Commenced	Terminated	Pending June 30
1941	22	33	20	1949	30 (11)	22	37
1942	31	23	28	1950	21 (3)	31	27
1943	22 (10)	16	34	1951	32 (—)	17	42
1944	46 (22)	46	34	1952	51 (20)	46	47
1945	125 (80)	122	37	1953	41 (17)	37	51
1946	243 (181)	235	45	1954	30	27	54
1947	67 (57)	69	43	3 quarters of 1955	28	27	55
1948	32 (11)	46	29				

PRIVATE CIVIL CASES

Fiscal year	Commenced	Terminated	Pending June 30	Fiscal year	Commenced	Terminated	Pending June 30
1941	27	49	56	1949	22	26	33
1942	38	37	57	1950	40	15	58
1943	22	33	46	1951	51	48	61
1944	20	29	37	1952	93	102	52
1945	15	10	42	1953	112	96	68
1946	21	26	37	1954	172	124	116
1947	24	27	44	3 quarters of 1955	118	120	114
1948	22	29	37				

CRIMINAL CASES

[Cases transferred are not included in "Commenced" and "Terminated" columns]

Fiscal year	Commenced	Terminated	Pending June 30	Fiscal year	Commenced	Terminated	Pending June 30
1941	101	97	38	1949	54	81	24
1942	148	121	65	1950	70	64	25
1943	109	152	82	1951	64	63	27
1944	160	177	65	1952	60	53	35
1945	74	98	41	1953	57	60	28
1946	76	83	34	1954	62	61	30
1947	86	90	26	3 quarters of 1955	40	36	32
1948	64	67	18				

[1] OPA cases, including rent control, are separately listed because from 1945 to 1947 they constituted a large proportion of all civil cases commenced, although they required on the average a relatively small proportion of court time per case for disposition during those years. They are included in the figure which they follow.

TABLE 2.—*Cases commenced per judgeship*

TOTAL CIVIL CASES

Fiscal year	Vermont		National average: Cases commenced per judgeship [1]	Fiscal year	Vermont		National average: Cases commenced per judgeship [1]
	Number of judgeships	Cases commenced per judgeship			Number of judgeships	Cases commenced per judgeship	
1941	1	40	164	1948	1	84	206
1942	1	69	168	1949	1	52	238
1943	1	44	158	1950	1	61	223
1944	1	66	169	1951	1	83	204
1945	1	140	295	1952	1	144	236
1946	1	264	321	1953	1	153	261
1947	1	101	271	1954	1	202	210

UNITED STATES CIVIL CASES (UNITED STATES A PARTY)

Fiscal year	Vermont, cases commenced per judgeship	National average: Cases commenced per judgeship [1]	Fiscal year	Vermont, cases commenced per judgeship	National average: Cases commenced per judgeship [1]
1941	22	83	1948	32	87
1942	31	91	1949	30	118
1943	22	100	1950	21	109
1944	46	113	1951	32	93
1945	125	238	1952	51	110
1946	243	251	1953	41	115
1947	67	162	1954	30	84

PRIVATE CIVIL CASES

Fiscal year	Vermont, cases commenced per judgeship	National average: Cases commenced per judgeship [1]	Fiscal year	Vermont, cases commenced per judgeship	National average: Cases commenced per judgeship [1]
1941	27	82	1948	22	117
1942	38	77	1949	22	121
1943	22	58	1950	40	113
1944	20	56	1951	51	111
1945	15	57	1952	93	126
1946	21	70	1953	112	146
1947	34	109	1954	172	127

CRIMINAL CASES

Fiscal year	Vermont, cases commenced per judgeship	National average: Cases commenced per judgeship [1]	Fiscal year	Vermont, cases commenced per judgeship	National average: Cases commenced per judgeship [1]
1941	101	165	1948	64	167
1942	148	147	1949	84	177
1943	169	190	1950	70	169
1944	160	211	1951	64	180
1945	74	209	1952	60	177
1946	76	171	1953	57	171
1947	86	173	1954	62	172

[1] This column includes 86 districts for 1949 and thereafter; 84 districts before 1949.

Because caseload figures are given to the nearest whole number, it is not always possible to derive exact totals by adding component parts.

TABLE 3.—*Time intervals in civil cases terminated in which a trial was held for each fiscal year beginning with 1945*

CURRENCY OF DOCKETS

Fiscal year	Total cases terminated after trial		Percentage of terminated cases requiring less than 6 months for the interval from filing to disposition		Percentage of terminated cases requiring less than 3 months for the interval from issue to trial	
	Vermont	National [1]	Vermont	National [1]	Vermont	National [1]
1945	3	2,883	33.3	29.6	66.7	32.4
1946	15	3,421	46.7	29.3	60.0	33.4
1947	8	3,963	62.5	31.9	50.0	32.1
1948	9	4,548	33.3	26.7	33.3	27.4
1949	10	4,847	40.0	28.5	40.0	28.2
1950	3	5,020	----------	22.3	----------	24.5
1951	13	5,085	38.5	20.8	38.5	21.9
1952	28	4,767	42.3	12.1	53.8	22.8
1953	25	4,941	56.0	19.2	56.0	21.2
1954	31	4,825	51.6	17.1	48.4	19.1

[1] This column includes all districts having purely Federal jurisdiction: 86 districts for 1949 and thereafter; 84 districts before 1949.

The period from filing to disposition is the elapsed time from commencement to termination of the case. The period from issue to trial is the time from filing of the answer to the date trial is begun.

Land condemnation, habeas corpus, and forfeiture cases are not included because they are not representative of the time required for the general run of civil cases.

Median time interval

	1952	1953	1954
	Months	*Months*	*Months*
Filing to disposition	7.8	5.7	5.3
Issue to trial	2.2	2.4	3.1

TABLE 4.—*Cases commenced per judgeship in the district of Vermont and in 86 districts in the fiscal year 1954 by nature of suit*

	Cases commenced per judgeship		National average: Cases terminated 1954: Percentage reaching trial [1]
	Vermont	86 districts	
			Percent
Civil cases:			
Total cases	202	210	11
United States cases	30	84	9
Private cases	172	127	13
United States plaintiff	26	65	8
Land condemnation	1	3	
Fair Labor Standards Act		2	11
Other enforcement suits	2	3	13
Food and Drug Act		5	1
Liquor laws		3	28
Other forfeitures and penalties	1	4	8
Negotiable instruments	7	25	1
Other contracts	3	13	4
Other United States plaintiff	12	6	7
United States defendant	4	19	16
Enjoin Federal agencies		2	18
Habeas corpus		4	12
Tort Claims Act	2	5	17
Tax suits	2	4	19
Other United States defendant		4	16
Federal question	3	33	11
Copyright		1	6
Employers' Liability Act		6	22
Fair Labor Standards Act		1	12
Habeas corpus	1	3	4
Jones Act		10	5
Miller Act	1	2	12
Patent		3	17
Other Federal question	1	9	10
Diversity of citizenship	169	81	15
Insurance	6	14	14
Other contracts	11	15	16
Real property	4	3	17
Personal injury (motor vehicle)	114	30	14
Personal injury (other negligence)	25	14	16
Other diversity	9	5	14
Admiralty		13	8
Criminal cases	62	172	9

[1] This column shows, by nature of suit, the percentage of all cases which were terminated after reaching the trial stage in the 86 United States district courts having purely Federal jurisdiction. Because these figures have been relatively stable over a period of years, they are valuable in assessing the relative burden on each judge of the caseloads given in the other 2 columns in terms of the probability that a given number of cases in each category will actually reach trial.

District of Wyoming

TABLE 1.—*Cases commenced and terminated, by fiscal year, and pending at the end of each year, beginning with 1941*

TOTAL CIVIL CASES

Fiscal year	Commenced	Terminated	Pending June 30	Fiscal year	Commenced	Terminated	Pending June 30
1941	47	44	39	1949	61	56	40
1942	59	59	39	1950	78	64	54
1943	56	45	40	1951	101	69	86
1944	28	34	34	1952	116	137	65
1945	49	46	37	1953	131	122	74
1946	52	63	26	1954	144	135	83
1947	86	71	41	3 quarters of 1955	95	103	75
1948	59	65	35				

UNITED STATES CIVIL CASES (UNITED STATES A PARTY)

[OPA cases are in parentheses [1]]

Fiscal year	Commenced	Terminated	Pending June 30	Fiscal year	Commenced	Terminated	Pending June 30
1941	21	13	17	1949	36 (3)	32	21
1942	34	33	18	1950	39	32	28
1943	39 (4)	27	30	1951	55	34	49
1944	16 (2)	26	20	1952	61 (12)	86	24
1945	40 (12)	31	29	1953	89 (3)	72	41
1946	45 (12)	53	21	1954	79	85	35
1947	61 (18)	54	28	3 quarters of 1955	48	54	29
1948	33 (1)	44	17				

PRIVATE CIVIL CASES

Fiscal year	Commenced	Terminated	Pending June 30	Fiscal year	Commenced	Terminated	Pending June 30
1941	26	31	12	1949	25	24	19
1942	25	26	11	1950	39	32	26
1943	17	18	10	1951	46	35	37
1944	12	8	14	1952	55	51	41
1945	9	15	8	1953	42	50	33
1946	7	10	5	1954	65	50	48
1947	25	17	13	3 quarters of 1955	47	49	46
1948	26	21	18				

CRIMINAL CASES

[Cases transferred are not included in "Commenced" and "Terminated" columns]

Fiscal year	Commenced	Terminated	Pending June 30	Fiscal year	Commenced	Terminated	Pending June 30
1941	73	76	20	1949	107	117	19
1942	83	67	36	1950	158	152	20
1943	99	87	48	1951	147	148	19
1944	132	153	27	1952	129	120	28
1945	125	68	84	1953	119	118	31
1946	97	156	25	1954	119	130	16
1947	118	117	27	3 quarters of 1955	91	73	29
1948	111	112	28				

[1] OPA cases, including rent control, are separately listed because from 1945 to 1947 they constituted a large proportion of all civil cases commenced, although they required on the average a relatively small proportion of court time per case for disposition during those years. They are included in the figure which they follow.

TABLE 2.—*Cases commenced per judgeship*

TOTAL CIVIL CASES

Fiscal year	Wyoming		National average: Cases commenced per judgeship [1]	Fiscal year	Wyoming		National average: Cases commenced per judgeship [1]
	Number of judgeships	Cases commenced per judgeship			Number of judgeships	Cases commenced per judgeship	
1941	1	47	164	1948	1	89	205
1942	1	59	168	1949	1	61	238
1943	1	56	158	1950	1	78	222
1944	1	28	169	1951	1	101	204
1945	1	49	295	1952	1	116	236
1946	1	52	321	1953	1	131	261
1947	1	86	271	1954	1	144	210

UNITED STATES CASES (UNITED STATES A PARTY)

Fiscal year	Wyoming	National average: Cases commenced per judgeship [1]	Fiscal year	Wyoming	National average: Cases commenced per judgeship [1]
	Cases commenced per judgeship			Cases commenced per judgeship	
1941	21	83	1948	33	87
1942	34	91	1949	36	118
1943	39	100	1950	39	109
1944	16	113	1951	55	93
1945	40	238	1952	61	110
1946	45	251	1953	89	115
1947	61	162	1954	79	84

PRIVATE CIVIL CASES

Fiscal year	Wyoming	National average: Cases commenced per judgeship [1]	Fiscal year	Wyoming	National average: Cases commenced per judgeship [1]
	Cases commenced per judgeship			Cases commenced per judgeship	
1941	26	82	1948	26	117
1942	25	77	1949	25	121
1943	17	58	1950	39	113
1944	12	56	1951	46	111
1945	9	57	1952	55	126
1946	7	70	1953	42	146
1947	25	109	1954	65	127

CRIMINAL CASES

Fiscal year	Wyoming	National average: Cases commenced per judgeship [1]	Fiscal year	Wyoming	National average: Cases commenced per judgeship [1]
	Cases commenced per judgeship			Cases commenced per judgeship	
1941	73	165	1948	111	167
1942	83	174	1949	107	177
1943	99	190	1950	158	169
1944	132	211	1951	147	180
1945	125	209	1952	129	177
1946	97	171	1953	119	171
1947	118	173	1954	119	172

[1] This column includes 86 districts for 1949 and thereafter; 84 districts before 1949.

Because caseload figures are given to the nearest whole number, it is not always possible to derive exact totals by adding component parts.

TABLE 3.—*Time intervals in civil cases terminated in which a trial was held, for each fiscal year beginning with 1945*

CURRENCY OF DOCKETS

Fiscal year	Total cases terminated after trial		Percentage of terminated cases requiring less than 6 months for the interval from filing to disposition		Percentage of terminated cases requiring less than 3 months for the interval from issue to trial	
	Wyoming	National [1]	Wyoming	National [1]	Wyoming	National [1]
1945	9	2,852	22.2	29.6	33.3	32.4
1946	4	3,421		29.3		33.4
1947	5	3,903	40.0	31.9	20.0	32.1
1948	9	4,548	44.4	26.7	44.4	27.4
1949	7	4,547	28.6	28.5	57.1	28.2
1950	16	5,020	12.5	22.3	31.3	24.5
1951	10	5,085	50.0	20.8	40.0	21.9
1952	24	4,767	29.2	21.1	37.5	22.8
1953	12	4,941	8.3	19.2	25.0	21.2
1954	11	4,825	36.4	17.1	45.5	19.1

[1] This column includes all districts having purely Federal jurisdiction: 86 districts for 1949 and thereafter; 84 districts before 1949.

The period from filing to disposition is the elapsed time from commencement to termination of the case. The period from issue to trial is the time from filing of the answer to the date trial is begun.

Land condemnation, habeas corpus and forfeiture cases are not included because they are not representative of the time required for the general run of civil cases.

90005—57 S. Rept., 84–2, vol. 5——20g

TABLE 4.—*Cases commenced per judgeship in the District of Wyoming and in 86 districts in the fiscal year 1954 by nature of suit*

	Cases commenced per judgeship		National average: Cases terminated 1954: Percentage reaching trial [1]
	Wyoming	86 districts	
Civil cases:			*Percent*
Total cases	144	210	11
United States cases	79	84	9
Private cases	65	127	13
United States plaintiff	73	65	6
Land condemnation	2	3	----
Fair Labor Standards Act	----	2	11
Other enforcement suits	1	3	13
Food and Drug Act	6	5	1
Liquor laws	1	3	28
Other forfeitures and penalties	6	4	8
Negotiable instruments	39	25	1
Other contracts	7	13	4
Other United States plaintiff	11	6	7
United States defendant	6	19	16
Enjoin Federal agencies	1	2	18
Habeas corpus	3	4	12
Tort Claims Act	2	5	17
Tax suits	----	4	19
Other United States defendant	----	4	16
Federal question	3	33	11
Copyright	----	1	6
Employers' Liability Act	----	6	22
Fair Labor Standards Act	----	1	12
Habeas corpus	----	3	4
Jones Act	----	10	5
Miller Act	3	2	12
Patent	----	3	17
Other Federal question	----	9	10
Diversity of citizenship	62	81	15
Insurance	1	14	14
Other contracts	10	15	16
Real property	12	3	17
Personal injury (motor vehicle)	28	30	14
Personal injury (other negligence)	7	14	16
Other diversity	4	5	14
Admiralty	----	13	8
Criminal cases	119	172	9

[1] This column shows, by nature of suit, the percentage of all cases which were terminated after reaching the trial stage in the 86 United States district courts having purely Federal jurisdiction. Because these figures have been relatively stable over a period of years, they are valuable in assessing the relative burden on each judge of the caseloads given in the other 2 columns in terms of the probability that a given number of cases in each category will actually reach trial.

APPENDIX 11

THE JUDICIAL BUSINESS OF THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF MARYLAND

The district of Maryland has two judgeships at the present time. Judge Chesnut, now almost 82 years old, who retired on July 31, 1953, has been holding court regularly and the district has thus had the services of 3 judges since the appointment of Judge Thomsen a year ago. However, Judge Coleman, the senior judge, has announced his resignation as of June 1, 1955. Court is held at Baltimore and the term there is practically continuous except during the summer months.

The number of civil cases filed annually in the district increased about 40 percent from 1941 to 1952, but in 1953 and 1954 and in the first 3 quarters of the fiscal year 1955 there was an additional increase of about 50 percent over the 1952 figures principally as the result of the commencement of a large number

of suits by the United States against casualty companies on surety bonds and in recent months because of a large volume of cases seeking recovery of overpayments and judgments on negotiable instruments. The number of civil cases commenced, terminated, and pending at the end of each fiscal year since 1950 is shown in the following table:

Total civil cases

Fiscal year	Commenced	Terminated	Pending on June 30
1951	442	541	308
1952	598	506	400
1953	923	499	824
1954	879	505	1,198
3 quarters of 1955	729	1,031	896

The large increase in terminations in the last 9 months and the resulting decrease in the pending caseload has been among those suits to which the United States is a party. But there has also been a noticeable increase in the more time-consuming private civil cases from 229 in the prewar year of 1941 to 325 in the fiscal year 1954, and during the same period the number of private civil cases pending increased from 111 to 334 and in the last 9 months to 364. The number of private civil cases commenced, terminated, and pending at the end of each fiscal year since 1950 is as follows:

Private civil cases

Fiscal year	Commenced	Terminated	Pending on June 30
1951	278	317	213
1952	299	246	266
1953	327	267	326
1954	325	317	334
3 quarters of 1955	278	248	364

The increase in these cases has been a steady one and, in spite of the fact that the district has enjoyed the services of 3 judges due to the full-time duty of 1 retired judge, the terminations have not kept pace. In the first 3 quarters of the current fiscal year 278 private civil cases were filed and only 248 terminated. On March 31, 1955, there were 896 civil cases pending in the district distributed by the nature of the action as follows:

Civil cases pending on Mar. 31, 1955, by nature of suit

Total, civil cases	896
United States cases	532
Land condemnation	38
Contracts:	
Negotiable instruments	59
Overpayments	51
Other (includes bond cases)	281
Tort Claims Act	19
Tax suits	28
All other	56
Private cases	364
Patent	21
Antitrust	7
Other Federal question	29
Diversity of citizenship:	
Contracts	84
Personal injury, motor vehicle	106
Personal injury, other negligence	37
Other diversity	15
Admiralty	65

The heavy load carried by the judges of this district is illustrated by the following table showing the caseload per judgeship of cases filed in that court, compared with the national average, from 1951 to 1954:

Cases commenced per judgeship

Fiscal year	Total civil cases		Private civil cases		Criminal cases	
	Maryland	National average	Maryland	National average	Maryland	National average
1951	221	204	139	111	[1] 133	[1] 180
1952	299	236	150	126	[2] 120	[2] 112
1953	462	261	164	146	[2] 120	[2] 114
1954	440	210	163	127	[2] 122	[2] 103

[1] Including immigration cases.
[2] Not including immigration cases.

It is apparent that, even discounting the large number of suits filed by the Government on bonds in recent years which are for the protection of the United States and which will result in very few trials, the caseload in Maryland has been very much above average.

In addition to the rising caseloads an important factor contributing to the workload of the court is the number of long cases. So far this year Judge Coleman has tried 5 cases which consumed 7 or more trial days. One patent case required 25 days and 2 others required 7 days each. A Miller Act trial consumed 9 days and a criminal income-tax-evasion case took 13 days. Judge Chesnut had 1 such criminal case which required 7 days and Judge Thomsen tried a habeas corpus matter for 9 days and another criminal case for 8 days.

More of these long trials are anticipated. On March 31, 1955, there were 106 motor-vehicle-accident cases pending, 21 patent suits, 19 Tort Claims Act suits, 28 tax cases, and 7 private antitrust actions. A criminal antitrust suit involving 55 concerns in the liquor industry will take 1 to 2 months for trial and has been tentatively set for November 1 before Judge Thomsen. Another complicated patent infringement case against General Motors which will require an equal amount of time has been tentatively set for January 1956. A third long case on the docket between several shipping companies, involving some $3½ million, estimated to require at least a month of trial time is awaiting a trial date. These long cases seem to have become the ordinary run of business in this district. Judge Thomsen during the current fiscal year has handed down an opinion in the extremely important case of *United States* v. *Provoo*, now on appeal to the Supreme Court and within the past week has filed a 40-page opinion in *Western Maryland R. R. Co.* v. *United States*, involving a claim for refund against the United States of income taxes involving $1,767,000.

The district of Maryland has been noted for promptness in the disposition of cases, but with the increased caseloads of the last 2 years, the time required to reach trial has been increasing. The median time interval for the disposition of civil cases tried went up from 8.8 months in 1953 to 13.1 months in 1954, which is about the same as the interval of 13.5 months for all 86 districts in 1954. The median time interval from issue to trial in 1954 was 5.6 months compared to a national median of 8.1 months.

For the last 14 fiscal years the criminal business of the district has not varied appreciably. In 1941 there were 220 criminal cases commenced and in 1954 criminal cases number 252. In the first 9 months of the fiscal year 1955 there were 217 original proceedings commenced in Maryland and 210 were terminated by final disposition, leaving 78 cases pending on March 31, 1955.

Complete statistical tables showing the civil and criminal business in the district for the last 14 fiscal years are attached.

Respectfully submitted.

JOSEPH F. SPANIOL, JR.,
Attorney, Division of Procedural Studies and Statistics,
Administrative Office of the United States Courts.

MAY 23, 1955.

District of Maryland

TABLE 1.—*Cases commenced and terminated, by fiscal year, and pending at the end of each year, beginning with 1941*

Fiscal year	Commenced	Terminated	Pending June 30	Fiscal year	Commenced	Terminated	Pending June 30
1941	428	429	173	1949	609	636	426
1942	439	430	182	1950	581	600	407
1943	431	368	245	1951	442	541	308
1944	333	308	270	1952	596	506	400
1945	444	392	322	1953	923	499	824
1946	533	485	370	1954	879	505	1,198
1947	651	551	470	First half of 1955	537	766	969
1948	524	601	393				

UNITED STATES CIVIL CASES (UNITED STATES A PARTY)

[OPA cases are in parentheses [1]]

Fiscal year	Commenced	Terminated	Pending June 30	Fiscal year	Commenced	Terminated	Pending June 30
1941	199	209	62	1949	338 (37)	330	162
1942	274	249	87	1950	258 (31)	265	155
1943	256 (5)	197	146	1951	164 (34)	224	95
1944	205 (35)	170	181	1952	299 (73)	260	134
1945	319 (142)	278	222	1953	596 (31)	232	498
1946	346 (137)	355	213	1954	554	188	864
1947	415 (199)	351	277	First half of 1955	363	625	602
1948	222 (27)	345	154				

PRIVATE CIVIL CASES

Fiscal year	Commenced	Terminated	Pending June 30	Fiscal year	Commenced	Terminated	Pending June 30
1941	229	220	111	1949	331	306	264
1942	166	181	95	1950	323	335	252
1943	175	171	99	1951	278	317	213
1944	128	138	89	1952	299	246	266
1945	125	114	100	1953	327	267	326
1946	187	130	157	1954	325	317	334
1947	236	200	193	First half of 1955	174	141	367
1948	302	256	239				

CRIMINAL CASES

[Cases transferred are not included in "Commenced" and "Terminated" columns]

Fiscal year	Commenced	Terminated	Pending June 30	Fiscal year	Commenced	Terminated	Pending June 30
1941	220	247	46	1949	260	225	48
1942	230	235	41	1950	225	237	37
1943	271	245	67	1951	266	219	66
1944	247	219	95	1952	265	225	86
1945	343	350	88	1953	224	248	83
1946	261	288	61	1954	252	253	83
1947	222	230	45	First half of 1955	124	124	81
1948	222	222	32				

[1] OPA cases, including rent control, are separately listed because from 1945 to 1947 they constituted a large proportion of all civil cases commenced, although they required on the average a relatively small proportion of court time per case for disposition during those years. They are included in the figure which they follow.

TABLE 2.—*Cases commenced per judgeship*

TOTAL CIVIL CASES

Fiscal year	Maryland		National average: Cases commenced per judgeship [1]	Fiscal year	Maryland		National average: Cases commenced per judgeship [1]
	Number of judgeships	Cases commenced per judgeship			Number of judgeships	Cases commenced per judgeship	
1941	2	214	164	1948	2	262	205
1942	2	220	168	1949	2	335	238
1943	2	216	158	1950	2	291	222
1944	2	167	169	1951	2	221	204
1945	2	222	295	1952	2	299	236
1946	2	267	321	1953	2	462	261
1947	2	326	271	1954	2	440	210

UNITED STATES CIVIL CASES (UNITED STATES A PARTY)

Fiscal year	Maryland, cases commenced per judgeship	National average: Cases commenced per judgeship [1]	Fiscal year	Maryland, cases commenced per judgeship	National average: Cases commenced per judgeship [1]
1941	100	83	1948	111	87
1942	137	91	1949	169	118
1943	128	100	1950	129	109
1944	103	113	1951	82	93
1945	160	238	1952	150	110
1946	173	251	1953	298	115
1947	207	162	1954	277	84

PRIVATE CIVIL CASES

Fiscal year	Maryland, cases commenced per judgeship	National average: Cases commenced per judgeship [1]	Fiscal year	Maryland, cases commenced per judgeship	National average: Cases commenced per judgeship [1]
1941	115	82	1948	151	117
1942	83	77	1949	166	121
1943	88	58	1950	162	113
1944	64	56	1951	139	111
1945	63	57	1952	150	126
1946	94	70	1953	164	146
1947	118	109	1954	163	127

CRIMINAL CASES

Fiscal year	Maryland, cases commenced per judgeship	National average: Cases commenced per judgeship [1]	Fiscal year	Maryland, cases commenced per judgeship	National average: Cases commenced per judgeship [1]
1941	110	165	1948	111	167
1942	115	174	1949	130	177
1943	136	190	1950	113	169
1944	124	211	1951	133	180
1945	172	209	1952	133	177
1946	130	171	1953	122	171
1947	111	173	1954	126	172

[1] This column includes 86 districts for 1949 and thereafter, 84 districts before 1949.

Because caseload figures are given to the nearest whole number, it is not always possible to derive exact totals by adding component parts.

TABLE 3.—*Time intervals in civil cases terminated in which a trial was held, for each fiscal year beginning with 1945*

CURRENCY OF DOCKETS

Fiscal year	Total cases terminated after trial		Median time intervals (in months)			
			Filing to disposition		Issue to trial	
	Maryland	National [2]	Maryland	National [1]	Maryland	National [1]
1945	34	2,883	6.5	9.0	3.4	5.3
1946	59	3,421	6.2	8.9	3.6	5.0
1947	60	3,963	6.6	9.0	3.9	5.1
1948	78	4,548	9.6	9.9	5.5	5.8
1949	86	4,847	7.5	10.4	5.1	5.9
1950	78	5,020	8.3	11.2	6.2	6.7
1951	76	5,085	8.8	12.2	4.8	7.3
1952	60	4,767	7.1	12.1	4.5	7.0
1953	73	4,941	8.8	12.4	5.5	7.4
1954	56	4,825	13.1	13.5	5.6	8.1

[1] The median time interval from filing to disposition is computed by arranging all cases terminated during the year, in which a trial was held, in order according to the time from filing to disposition, from the lowest to the highest. The median time is then the time required for the middle case of the series or if there is an even number of cases, it is the average time for the 2 middle cases. The same procedure is followed in determining the median time from issue to trial. The median instead of the average is used because it prevents distortion of the result by a few nontypical long or short cases. No median has been computed where there were less than 25 cases.

The period from filing to disposition is the elapsed time from commencement to termination of the case. The period from issue to trial is the time from filing of the answer to the date trial is begun.

Land condemnation, habeas corpus and forfeiture cases are not included because they are not representative of the time required for the general run of civil cases.

[2] These columns show the number of cases and the median time intervals for all districts having purely Federal jurisdiction (86 districts for 1949 and thereafter; 84 districts before 1949).

TABLE 4.—*Cases commenced per judgeship in the district of Maryland and in 86 districts in the fiscal year 1954 by nature of suit*

	Cases commenced per judgeship		National average, cases terminated 1954: Percentage reaching trial [1]
	Maryland	86 districts	
Civil cases:			*Percent*
Total cases	440	210	11
United States cases	277	84	9
Private cases	163	127	13
United States, plaintiff	252	65	6
Land condemnation	9	3	----
Fair Labor Standards Act	3	2	11
Other enforcement suits	4	3	13
Food and Drug Act	9	5	1
Liquor laws	2	3	28
Other forfeitures and penalties	12	4	8
Negotiable instruments	119	28	1
Other contracts	82	13	4
Other United States plaintiff	14	6	7
United States, defendant	25	19	16
Enjoin Federal agencies	7	1	18
Habeas corpus	6	4	12
Tort Claims Act	6	5	17
Tax suits	2	4	19
Other United States defendant	5	4	16
Federal question	34	33	11
Copyright	3	1	6
Employers' Liability Act	4	6	22
Fair Labor Standards Act	1	1	12
Habeas corpus	5	3	4
Jones Act	----	10	5
Miller Act	3	2	12
Patent	7	3	17
Other Federal question	12	9	10
Diversity of citizenship	93	81	15
Insurance	5	14	14
Other contracts	23	15	16
Real property	----	3	17
Personal injury (motor vehicle)	47	0	14
Personal injury (other negligible)	13	14	16
Other diversity	6	5	14
Admiralty	36	13	8
Criminal cases	126	172	9

[1] This column shows, by nature of suit, the percentage of all cases which were terminated after reaching the trial stage in the 86 United States district courts having purely Federal jurisdiction. Because these figures have been relatively stable over a period of years, they are valuable in assessing the relative burden on each judge of the caseloads given in the other two columns in terms of the probability that a given number of cases in each category will actually reach trial.

APPENDIX 12

THE JUDICIAL BUSINESS OF THE UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF MICHIGAN

The act of February 10, 1954 (68 Stat. 8), provided for a sixth judgeship for the United States District Court for the Eastern District of Michigan and reduced the size of the district by transferring five counties in the State from the jurisdiction of the eastern district to that of the western district. An additional judgeship was also provided for the western district. For almost 16 years prior to this act the eastern district of Michigan was provided with 5 judgeships.

The number of civil cases commenced, terminated, and pending in this district at the end of each year for the last 14 fiscal years is shown by the following table:

Fiscal year	Commenced	Terminated	Pending June 30	Fiscal year	Commenced	Terminated	Pending June 30
1941	989	1,254	838	1949	898	915	702
1942	844	1,085	597	1950	1,470	1,062	1,110
1943	504	664	437	1951	1,250	1,337	1,023
1944	459	475	421	1952	1,370	1,174	1,219
1945	949	687	683	1953	980	1,198	1,001
1946	883	1,017	549	1954	978	950	1,029
1947	1,069	907	711	First half of 1955	519	472	1,076
1948	760	752	719				

The number of pending cases showed a large increase in 1950 and it has not been possible to reduce it materially since that time. Meanwhile the time for reaching trial and for disposition of cases tried has been increasing as shown by the following table:

Fiscal year	Civil cases terminated after trial in Michigan (eastern)	Median time intervals (in months)			
		Filing to disposition		Issue to trial	
		Michigan (eastern)	National average	Michigan (eastern)	National average
1950	114	11.7	11.2	7.7	6.7
1951	109	10.8	12.2	7.1	7.3
1952	99	14.2	12.1	8.9	7.0
1953	112	15.3	12.4	7.9	7.4
1954	90	16.9	13.5	10.7	8.1

In the fiscal year 1954 half of the civil cases tried had been on the docket for almost a year and 5 months before they were finally disposed of and it was taking almost 11 months to get a trial after the filing of an answer. The addition of another judge last year was made to help this condition, but the serious illness of Judge Koscinski has put the situation back where it was.

In the first 7 months of the fiscal year 1955 there were 64 civil trials commenced excluding land condemnation and forfeiture cases and half of these had been at issue over 16 months at the time the trial was commenced. Trials of personal-injury cases numbered 31 and 8 of these had been at issue over a year and a half at the time of trial.

The nature of the civil business of the district is given in the following table showing the civil cases filed by nature of suit in the fiscal year 1954.

Civil cases filed in the eastern district of Michigan, by nature of suit, fiscal year 1954

Total civil cases	978
United States cases:	
United States plaintiff	280
Fair Labor Standards Act	12
Other enforcement suits	15
Food and drug forfeitures	14
Liquor forfeitures	3
Other forfeitures and penalties	18
Negotiable instruments	173
Other contracts	25
Other United States plaintiff suits	20
United States defendant	87
Review, enjoin Federal agencies	8
Habeas corpus	34
Tort Claims Act	17
Tax suits	22
Other United States defendant suits	6
Private cases:	
Federal question	194
Employers' Liability Act	22
Fair Labor Standards Act	6
Habeas corpus	65
Jones Act	32
Miller Act	5
Patent	17
Other Federal question cases	47
Diversity of citizenship	405
Insurance contracts	42
Other contracts	64
Real Property actions	6
Personal injury, motor vehicle	195
Personal injury, other negligence	67
Other diversity cases	31
Admiralty	12

The number of trials for the last 5 years has been as follows:

Fiscal year	Total trials commenced	Civil	Criminal
1950	149	113	36
1951	160	113	47
1952	177	112	65
1953	237	136	101
1954	161	84	77

The number of criminal cases filed, terminated, and pending at the end of each year for the last 5 years and during the first half of the fiscal year 1955 has been as follows:

Criminal cases

Fiscal year	Commenced	Terminated	Pending June 30
1950	692	814	184
1951	715	651	239
1952	594	583	248
1953	667	705	224
1954	581	625	197
First half of 1955	310	243	274

Some of these criminal cases have resulted in long trials. For example the case of United States versus Wellman, a Smith Act case tried by Judge Frank A. Picard in the fiscal year 1954, required 61 trial days.

In view of the present conditions the Judicial Conference of the United States on March 24, 1955, recommended the creation of an additional judgeship for this district.

Complete statistical tables showing the business of this court during the last 14 fiscal years are attached.

Respectfully submitted.

APRIL 1, 1955.

WILL SHAFROTH,
Chief, Division of Procedural Studies and Statistics,
Administrative Office of the United States Courts.

EASTERN DISTRICT OF MICHIGAN

TABLE 1.—*Cases commenced and terminated, by fiscal year, and pending at the end of each year, beginning with 1941*

TOTAL CIVIL CASES

Fiscal year	Commenced	Terminated	Pending June 30	Fiscal year	Commenced	Terminated	Pending June 30
1941	989	1,254	838	1949	898	915	702
1942	844	1,085	597	1950	1,470	1,062	1,110
1943	504	664	437	1951	1,250	1,337	1,023
1944	459	475	421	1952	1,370	1,174	1,219
1945	949	687	683	1953	980	1,198	1,001
1946	883	1,017	549	1954	978	950	1,029
1947	1,069	907	711	First half of 1955	519	472	1,076
1948	760	752	719				

UNITED STATES CIVIL CASES (UNITED STATES A PARTY)

[OPA cases are in parentheses [1]]

Fiscal year	Commenced	Terminated	Pending June 30	Fiscal year	Commenced	Terminated	Pending June 30
1941	204	248	225	1949	413 (257)	370	246
1942	139	240	124	1950	967 (285)	589	624
1943	251 (64)	165	210	1951	724 (278)	858	490
1944	264 (73)	263	211	1952	810 (452)	647	653
1945	743 (559)	517	437	1953	445 (130)	690	406
1946	607 (480)	745	299	1954	367	430	345
1947	563 (388)	558	304	First half of 1955	198	182	361
1948	303 (138)	404	203				

See footnotes at end of table, p. 124.

TABLE 1.—*Cases commenced and terminated, by fiscal year, and pending at the end of each year, beginning with 1941*—Continued

PRIVATE CIVIL CASES

Fiscal year	Commenced	Terminated	Pending June 30	Fiscal year	Commenced	Terminated	Pending June 30
1941	695	1,006	613	1949	485	545	456
1942	705	845	473	1950	503	473	486
1943	253	499	227	1951	526	479	533
1944	195	212	210	1952	560	527	566
1945	206	170	246	1953	535	508	593
1946	276	272	250	1954	611	520	684
1947	506	349	407	First half of 1955	321	290	715
1948	457	348	516				

CRIMINAL CASES

[Cases transferred are not included in "Commenced" and "Terminated" columns]

Fiscal year	Commenced	Terminated	Pending June 30	Fiscal year	Commenced	Terminated	Pending June 30
1941	362	360	143	1949	990	887	334
1942	574	471	246	1950	692	814	184
1943	567	564	249	1951	715	651	239
1944	664	590	323	1952	594	583	245
1945	722	767	278	1953	667	705	224
1946	496	568	206	1954	581	625	197
1947	498	566	154	First half of 1955	310	243	274
1948	676	615	229				

[1] OPA cases, including rent control, are separately listed because from 1945 to 1947 they constituted a large proportion of all civil cases commenced, although they required on the average a relatively small proportion of court time per case for disposition during those years. They are included in the figure which they follow. In 1952 Defense Production Act cases are included.

TABLE 2.—*Cases commenced per judgeship*

TOTAL CIVIL CASES

Fiscal year	Michigan (eastern)			National average: Cases commenced per judgeship [1]
	Number of judgeships	Cases commenced		
		Total	Per judgeship	
1941	5	989	198	164
1942	5	844	169	168
1943	5	504	101	158
1944	5	459	92	169
1945	5	949	190	295
1946	5	883	177	321
1947	5	1,069	214	271
1948	5	760	152	205
1949	5	898	180	238
1950	5	1,470	294	222
1951	5	1,250	250	204
1952	5	1,370	274	236
1953	5	980	196	261
1954	6	978	163	210

See footnotes at end of table, p. 125.

TABLE 2.—*Cases commenced per judgeship*—Continued

UNITED STATES CIVIL CASES (UNITED STATES A PARTY)

Fiscal year	Michigan (eastern)		National average: Cases commenced per judgeship [1]	Fiscal year	Michigan (eastern)		National average: Cases commenced per judgeship [1]
	Cases commenced	Cases commenced per judgeship			Cases commenced	Cases commenced per judgeship	
1941	294	59	83	1948	303	61	87
1942	139	28	91	1949	413	83	118
1943	251	50	100	1950	967	193	109
1944	264	53	113	1951	724	145	93
1945	743	149	238	1952	810	162	110
1946	607	121	251	1953	445	89	115
1947	563	113	162	1954	367	61	84

PRIVATE CIVIL CASES

Fiscal year	Michigan (eastern)		National average: Cases commenced per judgeship [1]	Fiscal year	Michigan (eastern)		National average: Cases commenced per judgeship [1]
	Cases commenced	Cases commenced per judgeship			Cases commenced	Cases commenced per judgeship	
1941	695	139	82	1948	457	91	117
1942	705	141	77	1949	485	97	121
1943	253	51	58	1950	503	101	113
1944	195	39	56	1951	526	105	111
1945	206	41	57	1952	560	112	126
1946	276	55	70	1953	535	107	146
1947	506	101	109	1954	611	102	127

CRIMINAL CASES

Fiscal year	Michigan (eastern)		National average: Cases commenced per judgeship [1]	Fiscal year	Michigan (eastern)		National average: Cases commenced per judgeship [1]
	Cases commenced	Cases commenced per judgeship			Cases commenced	Cases commenced per judgeship	
1941	362	72	165	1948	676	135	167
1942	574	115	174	1949	990	198	177
1943	567	113	190	1950	692	138	169
1944	664	133	211	1951	715	143	180
1945	722	144	209	1952	594	119	177
1946	496	99	171	1953	667	133	171
1947	498	100	173	1954	581	97	173

[1] This column includes all districts having purely Federal jurisdiction: 85 districts for 1949 and thereafter; 84 districts before 1949.

Because caseload figures are given to the nearest whole number, it is not always possible to derive exact totals by adding component parts.

TABLE 3.—*Time intervals in civil cases terminated in which a trial was held, for each fiscal year beginning with 1945*

CURRENCY OF DOCKETS

Fiscal year	Total cases terminated after trial		Median time intervals (in months) [1]			
			Filing to disposition		Issue to trial	
	Michigan (eastern)	National [2]	Michigan (eastern)	National [2]	Michigan (eastern)	National [2]
1945	43	2,983	13.0	9.0	8.9	5.3
1946	56	3,421	8.3	8.9	5.4	5.0
1947	57	3,963	10.4	9.0	7.1	5.1
1948	79	4,548	8.8	9.9	5.9	5.8
1949	102	4,847	10.3	10.4	7.3	5.9
1950	114	5,020	11.7	11.2	7.7	6.7
1951	109	5,085	10.8	12.2	7.1	7.3
1952	99	4,767	14.2	12.1	8.9	7.0
1953	112	4,941	15.3	12.4	7.9	7.4
1954	90	4,825	16.9	13.5	10.7	8.1

[1] The median time interval from filing to disposition is computed by arranging all cases terminated during the year, in which a trial was held, in order according to the time from filing to disposition, from the lowest to the highest. The median time is then the time required for the middle case of the series or if there is an even number of cases, it is the average time for the 2 middle cases. The same procedure is followed in determining the median time from issue to trial. The median instead of the average is used because it prevents distortion of the result by a few nontypical long or short cases. No median has been computed where there were less than 25 cases.

The period from filing to disposition is the elapsed time from commencement to termination of the case. The period from issue to trial is the time from filing of the answer to the date trial is begun.

Land condemnation, habeas corpus, and forfeiture cases are not included because they are not representative of the time required for the general run of civil cases.

[2] These columns show the number of cases and the median time intervals for all districts having purely Federal jurisdiction: 86 districts for 1949 and thereafter; 84 districts before 1949.

TABLE 4.—*Cases commenced per judgeship in the Eastern District of Michigan and in 86 districts in the fiscal year 1954 by nature of suit*

	Cases commenced per judgeship		National average: Cases terminated 1954: Percentage reaching trial [1]
	Michigan (eastern)	86 districts	
Civil cases:			*Percent*
Total cases	163	210	11
United States cases	61	84	9
Private cases	102	127	13
United States plaintiff	47	65	6
Land condemnation		3	
Fair Labor Standards Act	2	2	11
Other enforcement suits	3	3	13
Food and Drug Act	2	5	1
Liquor laws	1	3	28
Other forfeitures and penalties	3	4	5
Negotiable instruments	29	25	1
Other contracts	4	13	4
Other United States plaintiff	3	6	7
United States defendant	15	19	16
Enjoin Federal agencies	1	2	18
Habeas corpus	6	4	12
Tort Claims Act	3	5	17
Tax suits	4	4	19
Other United States defendant	1	4	16
Federal question	32	38	11
Copyright		1	6
Employers' Liability Act	4	6	22
Fair Labor Standards Act	1	1	12
Habeas corpus	11	3	4
Jones Act	5	10	5
Miller Act	1	2	12
Patent	3	3	17
Other Federal question	8	9	10
Diversity of citizenship	68	81	15
Insurance	7	14	14
Other contracts	11	15	16
Real property	1	3	17
Personal injury (motor vehicle)	33	30	14
Personal injury (other negligence)	11	14	16
Other diversity	5	5	14
Admiralty	2	13	8
Criminal cases	97	172	9

[1] This column shows, by nature of suit, the percentage of all cases which were terminated after reaching the trial stage in the 86 United States district courts having purely Federal jurisdiction. Because these figures have been relatively stable over a period of years, they are valuable in assessing the relative burden on each judge of the caseloads given in the other two columns in terms of the probability that a given number of cases in each category will actually reach trial.

APPENDIX 13

THE JUDICIAL BUSINESS OF THE UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF MISSISSIPPI

The Judicial Code of 1911 provided for one judge for the northern and southern districts of Mississippi and the act of March 1, 1929 (45 Stat. 1422) confined his jurisdiction to the southern district and provided for the appointment of an additional judge for the northern district. Since that date the number of judicial positions in the United States district courts in Mississippi has remained the same.

During the last 11 fiscal years the total number of civil cases commenced annually in the southern district has varied considerably, but if the suits arising out of the price and rent control regulations of the war and postwar periods are

eliminated, a steady increase in the judicial business of this district is evident. The number of private civil cases commenced has increased steadily from 151 cases in 1944 to 242 cases in 1954, a rise of 60 percent. The following table shows the total number of all civil cases and private civil cases commenced in this district during the last 11 fiscal years. The extremely heavy caseload is apparent when the 579 civil cases filed in the fiscal year 1954 are compared with the national average of 210 civil cases per judgeship and the 242 private civil cases are compared with the national average of 127 private civil cases.

Civil cases commenced in the southern district of Mississippi

Fiscal year	Total civil cases	Private civil cases	Fiscal year	Total civil cases	Private civil cases
1944	414	151	1950	318	196
1945	457	120	1951	390	229
1946	429	174	1952	383	227
1947	327	177	1953	503	246
1948	345	203	1954	579	242
1949	445	185			

In each of the last 11 fiscal years the civil caseload has been well above the national average and for the entire period it was about 75 percent greater. In 1954 the 579 civil cases commenced in the southern district of Mississippi gave that district the highest caseload per judge in the Nation and the private civil caseload of 242 cases was the sixth largest. An indication that this trend is continuing and even increasing is the fact that 250 civil cases were commenced in the district during the first half of the fiscal year 1955 as compared with 225 cases during the same period of the previous fiscal year. Private civil cases in the first half of the fiscal year 1955 were 164 compared with 112 for the same period in 1954.

The large increase in the total number of civil cases commenced from 383 cases in 1952 to 579 in 1954 is due almost entirely to an increase in suits by the Government on negotiable instruments and other contracts. The figure went from 22 in 1952 to 239 in 1954, an increase of 217 cases. In addition to these contract cases, the district has a large volume of tort suits. In 1954 the number of time-comsuming personal injury cases filed under the diversity jurisdiction was 144 compared to a national average of 45 per judge. There were 51 diversity contract actions compared with a national average of 28 such cases.

In addition to these civil cases the judge in the southern district of Mississippi is burdened with a heavy load of criminal work. If criminal immigration cases which are confined almost entirely to the five districts on the Mexican border are eliminated, the 367 criminal cases commenced in this district in 1954 are three and one-half times the national average of 103 criminal cases per judgeship, without immigration. The criminal caseload per judge in this district in 1954 was exceeded only by that in the 3 districts in the State of North Carolina. Owing to the preference given criminal cases the criminal dockets in the southern district of Mississippi are, generally speaking, in good condition.

Despite the large caseloads Judge Mize has been able to keep his civil dockets fairly current, but he has not been able to dispose of cases as fast as they are filed and some congestion is resulting. Table 3 attached, shows that in 1954 the median time interval from filing to disposition of civil cases tried during the fiscal year was 14.8 months compared to a national median of 13.5 months. However the median from issue to trial was only 5.7 months compared to the national median of 8.1 months. The number of pending civil cases has been increasing steadily from 233 cases on June 20, 1950, to 446 cases on December 31, 1954.

To meet this large caseloads, judges have been assigned from other districts to assist Judge Mize. During the fiscal year 1953, visiting judges spent a total of 44 days in this district in the actual trial of cases but in 1954 they spent only 15 trial days in the district.

Complete statistical information is attached.

Respectfully submitted.

JOSEPH F. SPANIOL, JR.,
Attorney, Division of Procedural Studies and Statistics,
Administrative Office of the United States Courts.

FEBRUARY 25, 1955.

Southern District of Mississippi

Table 1.—*Cases commenced and terminated, by fiscal year, and pending at the end of each year, beginning with 1941*

TOTAL CIVIL CASES

Fiscal year	Commenced	Terminated	Pending June 30	Fiscal year	Commenced	Terminated	Pending June 30
1941	325	317	241	1948	345	376	235
1942	313	329	225	1949	445	371	309
1943	300	284	241	1950	318	394	233
1944	414	366	289	1951	390	313	310
1945	457	471	275	1952	383	348	345
1946	429	403	301	1953	503	483	365
1947	327	362	266	1954	579	487	457

UNITED STATES CIVIL CASES (UNITED STATES A PARTY)

[OPA cases are in parentheses [1]]

Fiscal year	Commenced	Terminated	Pending June 30	Fiscal year	Commenced	Terminated	Pending June 30
1941	131	136	116	1948	142 (25)	166	101
1942	140	149	107	1949	260 (23)	192	169
1943	182 (8)	139	150	1950	123 (4)	195	97
1944	263 (20)	236	177	1951	161 (1)	124	134
1945	337 (139)	335	179	1952	156 (18)	164	126
1946	255 (158)	264	170	1953	257 (12)	208	175
1947	150 (50)	195	125	1954	337	283	229

PRIVATE CIVIL CASES

Fiscal year	Commenced	Terminated	Pending June 30	Fiscal year	Commenced	Terminated	Pending June 30
1941	194	181	125	1948	203	210	134
1942	173	180	118	1949	185	179	140
1943	118	145	91	1950	195	199	136
1944	151	130	112	1951	229	189	176
1945	120	136	96	1952	227	184	219
1946	174	139	131	1953	246	275	190
1947	177	167	141	1954	242	204	228

CRIMINAL CASES

[Cases transferred are not included in "Commenced" and "Terminated" columns]

Fiscal year	Commenced	Terminated	Pending June 30	Fiscal year	Commenced	Terminated	Pending June 30
1941	729	646	209	1948	304	311	61
1942	538	621	[2] 127	1949	307	278	86
1943	490	513	104	1950	281	284	81
1944	645	595	154	1951	246	272	64
1945	511	562	103	1952	339	268	135
1946	524	541	86	1953	286	333	82
1947	317	325	75	1954	367	297	156

[1] OPA cases, including rent control, are separately listed because from 1945 to 1947 they constituted a large proportion of all civil cases commenced, although they required on the average a relatively small proportion of court time per case for disposition during those years. They are included in the figure which they follow.

[2] Adjusted.

TABLE 2.—*Cases commenced per judgeship*

TOTAL CIVIL CASES

Fiscal year	Mississippi (southern)		National average: Cases commenced per judgeship [1]	Fiscal year	Mississippi (southern)		National average: Cases commenced per judgeship [1]
	Number of judgeships	Cases commenced per judgeship			Number of judgeships	Cases commenced per judgeship	
1941	1	325	164	1948	1	345	205
1942	1	313	168	1949	1	445	238
1943	1	300	158	1950	1	318	222
1944	1	414	169	1951	1	390	204
1945	1	457	295	1952	1	383	236
1946	1	429	321	1953	1	503	261
1947	1	327	271	1954	1	579	210

UNITED STATES CIVIL CASES (UNITED STATES A PARTY)

Fiscal year	Mississippi (southern), cases commenced per judgeship	National average: Cases commenced per judgeship [1]	Fiscal year	Mississippi (southern), cases commenced per judgeship	National average: Cases commenced per judgeship [1]
1941	131	83	1948	142	87
1942	140	91	1949	260	118
1943	182	100	1950	123	109
1944	263	113	1951	161	93
1945	337	238	1952	156	110
1946	255	251	1953	257	115
1947	150	162	1954	337	84

PRIVATE CIVIL CASES

Fiscal year	Mississippi (southern), cases commenced per judgeship	National average: Cases commenced per judgeship [1]	Fiscal year	Mississippi (southern), cases commenced per judgeship	National average: Cases commenced per judgeship [1]
1941	194	82	1948	203	117
1942	173	77	1949	185	121
1943	118	58	1950	195	113
1944	151	56	1951	229	111
1945	120	57	1952	227	126
1946	174	70	1953	246	146
1947	177	109	1954	242	127

CRIMINAL CASES

Fiscal year	Mississippi (southern), cases commenced per judgeship	National average: Cases commenced per judgeship [1]	Fiscal year	Mississippi (southern), cases commenced per judgeship	National average: Cases commenced per judgeship [1]
1941	729	165	1948	304	167
1942	538	174	1949	307	177
1943	490	190	1950	281	169
1944	645	211	1951	246	180
1945	511	209	1952	339	177
1946	524	171	1953	286	171
1947	317	173	1954	367	172

[1] This column includes 86 districts for 1949 and thereafter; 84 districts before 1949.

Because caseload figures are given to the nearest whole number, it is not always possible to derive exact totals by adding component parts.

TABLE 3.—*Time intervals in civil cases terminated in which a trial was held, for each fiscal year beginning with 1945*

CURRENCY OF DOCKETS

Fiscal year	Total cases terminated after trial		Median time intervals (in months) [1]			
			Filing to disposition		Issue to trial	
	Mississippi (southern)	National [2]	Mississippi (southern)	National [2]	Mississippi (southern)	National [2]
1945	26	2,883	6.8	9.0	5.2	5.3
1946	35	3,421	9.0	8.9	4.6	5.0
1947	23	3,963	----------	9.0	----------	5.1
1948	44	4,548	8.8	9.9	4.3	5.8
1949	35	4,847	7.6	10.4	5.1	5.9
1950	43	5,020	9.7	11.2	5.2	6.7
1951	23	5,085	----------	12.2	----------	7.3
1952	29	4,767	14.5	12.1	6.8	7.0
1953	48	4,941	11.4	12.4	7.3	7.4
1954	26	4,825	14.8	13.5	5.7	8.1

[1] The median time interval from filing to disposition is computed by arranging all cases terminated during the year, in which a trial was held, in order according to the time from filing to disposition, from the lowest to the highest. The median time is then the time required for the middle case of the series or if there is an even number of cases, it is the average time for the 2 middle cases. The same procedure is followed in determining the median time from issue to trial. The median instead of the average is used because it prevents distortion of the result by a few nontypical long or short cases. No median has been computed where there was less than 25 cases.

The period from filing to disposition is the elapsed time from commencement to termination of the case. period from issue to trial is the time from filing of the answer to the date trial is begun.

Land condemnation, habeas corpus, and forfeiture cases are not included because they are not representative of the time required for the general run of civil cases.

[2] These columns show the number of cases and the median time intervals for all districts having purely Federal jurisdiction: 86 districts for 1949 and thereafter; 84 districts before 1949.

TABLE 4.—*Cases commenced per judgeship in the southern district of Mississippi and in 86 districts in the fiscal year 1954, by nature of suit*

	Cases commenced per judgeship		National average: Cases terminated 1954: Percentage reaching trial [1]
	Mississippi (southern)	86 districts	
Civil cases:			*Percent*
Total cases	570	210	11
United States cases	337	84	9
Private cases	242	127	13
United States plaintiff	312	65	6
Land condemnation	2	3	
Fair Labor Standards Act	2	2	11
Other enforcement suits	5	3	13
Food and Drug Act	3	5	1
Liquor laws	44	3	28
Other forfeitures and penalties	4	4	8
Negotiable instruments	193	25	1
Other contracts	46	13	4
Other United States plaintiff	13	6	7
United States defendant	25	19	16
Enjoin Federal agencies	3	2	18
Habeas corpus	4	4	12
Tort Claims Act	5	5	17
Tax suits	11	4	19
Other United States defendant	2	4	16
Federal question	15	33	11
Copyright		1	6
Employers' Liability Act	2	6	22
Fair Labor Standards Act		1	12
Habeas Corpus	1	3	4
Jones Act	2	10	5
Miller Act	1	2	12
Patent	2	3	17
Other Federal question	7	9	10
Diversity of citizenship	226	81	15
Insurance	18	14	14
Other contracts	33	15	16
Real property	14	3	17
Personal injury (motor vehicle)	107	30	14
Personal injury (other negligence)	37	14	16
Other diversity	17	5	14
Admiralty	1	13	8
Criminal cases	367	172	9

[1] This column shows, by nature of suit, the percentage of all cases which were terminated after reaching the trial stage in the 86 United States district courts having purely Federal jurisdiction. Because these figures have been relatively stable over a period of years, they are valuable in assessing the relative burden on each judge of the caseloads given in the other 2 columns in terms of the probability that a given number of cases in each category will actually reach trial.

APPENDIX 14

THE JUDICIAL BUSINESS OF THE EASTERN DISTRICT OF NEW YORK

There has been no addition to the judicial force in the eastern district of New York since 1935 when the sixth judge was added (49 Stat. 945). However, the business of this court has not increased materially since the prewar period as shown by the figures for the years 1941–54 in table 1 attached hereto. There was some decrease in the number of civil cases filed during the war which was followed in 1945 and the 2 succeeding years by a flood of OPA cases. Since 1948 the civil cases commenced annually have decreased by about 15 percent while the number of private civil cases begun has fluctuated within a small range.

During the war 1 and sometimes 2 judges from this district sat regularly in the southern district of New York, but in recent years the docket conditions in Brooklyn have prevented this.

Following the war the number of pending civil cases increased rapidly to over 2,200 in 1947 where it remained for about 3 years and in 1951 increased to 2,400. There has been only a small increase since that time.

However the condition of the civil calendar has deteriorated very decidedly since the war as is shown by the following table:

Cases on civil calendar, New York (eastern)

End of term	Admiralty	Nonjury	Jury	Total
December 1946	240	6	57	303
June 1947	244	114	61	419
June 1948	309	152	251	712
June 1949	432	135	341	908
June 1950	503	254	296	1,053
June 1951	518	241	390	1,149
June 1952	485	274	540	1,299
June 1953	454	319	526	1,299
May 1954	408	385	624	1,417
December 1954	382	433	729	1,544
December 1953	468	403	649	1,520

During the year from December 31, 1953, to December 31, 1954, the cases on the calendar increased by 24.

Since 1948 there has also been a very large increase in the median time required for the disposition of civil cases reaching trial in this district. The median time intervals for the fiscal years 1948 to 1954 as shown in table 3 have been as follows:

Median time from filing to disposition and issue to trial for cases terminated after trial in the Eastern District of New York

Fiscal year	Cases terminated after trial [1]	Medians in months	
		Filing to disposition	Issue to trial
1948	133	17.3	9.4
1949	170	21.8	13.5
1950	173	21.4	17.9
1951	130	25.7	20.0
1952	126	25.4	17.2
1953	98	32.6	28.5
1954	108	39.5	34.2

[1] Does not include land condemnation, forfeiture and habeas corpus cases.

The following breakdown by nature of suit indicates the long delays which are taking place in this district:

Cases terminated after trial began, fiscal year 1954

Number of cases	Nature of suit	Number of cases in each period	
		Filing to disposition	Issue to trial
12 (nonjury)	Tort Claims Act:		
	Less than 1 year	1	1
	1 to 2 years		
	2 to 3 years	3	4
	3 to 4 years	3	4
	4 to 5 years	3	1
	5 years or over	2	2
12 (11 nonjury, 1 jury)	Other United States:		
	Less than 1 year		1
	1 to 2 years	1	1
	2 to 3 years	2	2
	3 to 4 years	2	7
	4 to 5 years	4	
	5 years or over	3	1
16 (1 nonjury, 15 jury)	Federal Employers' Liability Act:		
	Less than 1 year	2	4
	1 to 2 years	6	4
	2 to 3 years	5	6
	3 to 4 years	2	1
	Over 5 years	1	1
12 (6 nonjury, 6 jury)	Other Federal question:		
	Less than 1 year	2	5
	1 to 2 years	3	
	2 to 3 years	3	6
	3 to 4 years	3	1
	4 to 5 years	1	
19 (1 nonjury, 18 jury)	Personal injury—negligence:		
	Less than 1 year	4	5
	1 to 2 years	2	2
	2 to 3 years	7	6
	3 to 4 years	4	5
	4 to 5 years	2	1
8 (5 nonjury, 3 jury)	Other diversity:		
	Less than 1 year		
	1 to 2 years	1	1
	2 to 3 years	3	4
	3 to 4 years	1	1
	4 to 5 years	3	2
29 (all nonjury)	Admiralty:		
	Less than 1 year		1
	1 to 2 years	1	4
	2 to 3 years	1	
	3 to 4 years	1	3
	4 to 5 years	8	16
	5 years or over	18	3
108 (65 nonjury, 43 jury).	Total:		
	Less than 1 year	9	17
	1 to 2 years	14	12
	2 to 3 years	24	28
	3 to 4 years	16	24
	4 to 5 years	21	20
	5 years or over	24	7

The medians for jury and nonjury cases were as follows:

	Number of cases	Filing to disposition	Issue to trial
Nonjury	65	53.8	45.5
Jury	43	27.4	26.0

This compares with the following national medians:

	Filing to disposition	Issue to trial
Nonjury	15.0	8.0
Jury	11.6	8.3

It appears from the above tabulations that admiralty cases drag much more than any others. If the 29 private admiralty trials were eliminated from the nonjury list, the other 36 nonjury cases would have the following median intervals in months:

Filing to disposition	46.9
Issue to trial	38.2

Admiralty cases always are longer in the courts than many other kinds of actions because witnesses or parties are often absent and the admiralty bar has accustomed itself to a slow pace. But even without these cases the medians for nonjury cases of approximately 4 years from filing to disposition and 3 years from issue to trial are far beyond "normal" conditions.

The proportion of cases in this district disposed of by trial or by court action or motion was only 7.6 percent of total civil terminations, which is considerably below the national average. On the other hand, the number of trials in admiralty cases, 9 percent was well above average. Out of 44 Jones Act cases terminated only one reached trial while with the same number of terminations in Tort Claims Act cases, there were 12 trials. Further details on the method of disposition of civil cases terminated are given in table 5.

A vacancy covering practically the entire court year from September 30, 1952, to May 20, 1953, followed Judge Kennedy's resignation and there has been illness which has depleted the ranks of the judges on duty during the last several years. Especially important as a cause of the docket situation has been the large number of cases arising out of two disastrous wrecks on the Long Island Railroad. These have resulted in a large number of trails but most of them were disposed of by July 1, 1953, and the docket situation has disintegrated further since that time.

Judge Mortimer G. Byers of this district attributes the present situation largely to the lawyers and particularly to the fact that the negligence cases are in comparatively few hands. This is undoubtedly one of the causes of delay.

The number of trials for the last 5 years is shown in table 6.

The criminal cases in this district now exceed the prewar figures but the number of cases filed annually has not increased materially since 1948. However, the number of pending cases as of December 31, 1954, was 171 compared with 107 at the end of the fiscal year 1948. Criminal cases filed in the first half of the current fiscal year were 181 and the number terminated was 195 (excluding transfers in both figures). The United States Attorney reports difficulties in getting his criminal cases tried because of the lack of sufficient judge power.

The eastern district of New York had a population at the time of the 1950 census of 5,429,473. This was a larger number of people than in any other Federal judicial district except northern Illinois, which has 8 judgeships and southern California which has 11 judgeships.

Statistical tables are attached.

Respectfully submitted.

WILL SHAFROTH,
Chief, Division of Procedural Studies and Statistics, Administrative Office of the United States Courts.

FEBRUARY 25, 1955.

Eastern District of New York

Table 1.—*Cases commenced and terminated, by fiscal year, and pending at the end of each year, beginning with 1941*

Fiscal year	Commenced	Terminated	Pending June 30	Fiscal year	Commenced	Terminated	Pending June 30
1941	1,272	1,109	1,223	1949	1,346	1,381	2,156
1942	1,062	1,176	1,109	1950	1,198	1,237	2,117
1943	987	1,099	997	1951	1,266	971	2,412
1944	1,007	897	1,107	1952	1,167	1,272	2,307
1945	2,263	1,955	1,415	1953	1,251	1,073	2,485
1946	2,054	1,535	1,934	1954	1,180	1,174	2,491
1947	1,721	1,412	2,243	First half of 1955	662	515	2,638
1948	1,383	1,435	2,191				

UNITED STATES CIVIL CASES (UNITED STATES A PARTY)

[OPA cases are in parentheses [1]]

Fiscal year	Commenced	Terminated	Pending June 30	Fiscal year	Commenced	Terminated	Pending June 30
1941	548	482	433	1949	613 (289)	758	749
1942	415	472	376	1950	540 (171)	593	696
1943	428 (12)	428	376	1951	458	414	740
1944	517 (166)	423	470	1952	490 (38)	483	747
1945	1,725 (1,228)	1,476	719	1953	510 (41)	429	828
1946	1,509 (1,111)	1,068	1,160	1954	496	486	838
1947	986 (615)	858	1,288	First half of 1955	305	246	897
1948	531 (173)	905	904				

PRIVATE CIVIL CASES

Fiscal year	Commenced	Terminated	Pending June 30	Fiscal year	Commenced	Terminated	Pending June 30
1941	724	627	790	1949	733	613	1,407
1942	647	704	733	1950	658	644	1,421
1943	559	671	621	1951	808	557	1,672
1944	490	474	637	1952	677	789	1,560
1945	538	479	696	1953	741	644	1,657
1946	545	467	774	1954	684	588	1,653
1947	735	554	955	First half of 1955	357	269	1,741
1948	862	530	1,287				

CRIMINAL CASES

[Cases transferred are not included in "Commenced" and "Terminated" columns]

Fiscal year	Commenced	Terminated	Pending June 30	Fiscal year	Commenced	Terminated	Pending June 30
1941	250	288	134	1949	333	341	106
1942	344	260	218	1950	266	298	84
1943	556	515	259	1951	251	265	76
1944	722	724	257	1952	230	231	93
1945	526	554	229	1953	237	241	101
1946	543	570	202	1954	358	289	180
1947	366	422	151	First half of 1955	181	195	171
1948	338	393	107				

[1] OPA cases, including rent control, are separately listed because from 1945 to 1947 they constituted a large proportion of all civil cases commenced, although they required on the average a relatively small proportion of court time per case for disposition during those years. They are included in the figure which they follow.

TABLE 2.—*Cases commenced per judgeship*

TOTAL CIVIL CASES

Fiscal year	New York (eastern)			National average: Cases commenced per judgeship [1]
	Number of judgeships	Cases commenced		
		Total	Per judgeship	
1941	6	1,272	212	164
1942	6	1,062	177	162
1943	6	987	165	158
1944	6	1,007	168	169
1945	6	2,263	377	295
1946	6	2,054	342	321
1947	6	1,721	287	271
1948	6	1,383	231	205
1949	6	1,346	224	228
1950	6	1,198	200	222
1951	6	1,266	211	204
1952	6	1,167	195	236
1953	6	1,251	209	261
1954	6	1,180	197	210

UNITED STATES CIVIL CASES (UNITED STATES A PARTY)

Fiscal year	New York (eastern)		National average: Cases commenced per judgeship [1]	Fiscal year	New York (eastern)		National average: Cases commenced per judgeship [1]
	Cases commenced	Cases commenced per judgeship			Cases commenced	Cases commenced per judgeship	
1941	549	92	83	1948	521	87	87
1942	415	69	91	1949	613	102	118
1943	428	71	100	1950	540	90	109
1944	517	87	113	1951	458	76	93
1945	1,725	288	238	1952	490	82	110
1946	1,509	251	251	1953	510	85	116
1947	986	165	162	1954	496	83	84

PRIVATE CIVIL CASES

Fiscal year	New York (eastern)		National average: Cases commenced per judgeship [1]	Fiscal year	New York (eastern)		National average: Cases commenced per judgeship [1]
	Cases commenced	Cases commenced per judgeship			Cases commenced	Cases commenced per judgeship	
1941	724	121	82	1948	862	144	117
1942	647	108	77	1949	733	122	121
1953	559	93	58	1950	658	110	113
1944	490	82	56	1951	808	135	111
1945	538	90	57	1952	677	113	126
1946	545	91	70	1953	741	124	146
1947	735	123	109	1954	684	114	127

See footnotes at end of table, p. 138.

TABLE 2.—*Cases commenced per judgeship*—Continued

CRIMINAL CASES

Fiscal year	New York (eastern)		National average: Cases commenced per judgeship [1]	Fiscal year	New York (eastern)		National average: Cases commenced per judgeship [1]
	Cases commenced	Cases commenced per judgeship			Cases commenced	Cases commenced per judgeship	
1941	259	43	165	1948	338	56	167
1942	344	57	174	1949	333	56	177
1943	556	93	190	1950	266	44	169
1944	722	120	211	1951	251	42	180
1945	526	88	209	1952	230	38	177
1946	543	91	171	1953	237	40	171
1947	366	61	173	1954	358	60	172

[1] This column includes 86 districts for 1949 and thereafter; 84 districts before 1949.

Because caseload figures are given to the nearest whole number, it is not always possible to derive exact totals by adding component parts.

TABLE 3.—*Time intervals in civil cases terminated in which a trial was held, for each fiscal year beginning with 1945*

CURRENCY OF DOCKETS

Fiscal year	Total cases terminated after trial		Median time intervals (in months) [1]			
			Filing to disposition		Issue to trial	
	New York (eastern)	National [2]	New York (eastern)	National [2]	New York (eastern)	National [2]
1945	116	2,883	14.8	9.0	6.3	5.3
1946	98	3,421	18.0	8.9	8.6	5.0
1947	98	3,963	17.3	9.0	7.9	5.1
1948	133	4,548	17.3	9.9	9.4	5.8
1949	170	4,847	21.5	10.4	13.5	5.9
1950	173	5,020	21.4	11.2	17.9	6.7
1951	130	5,085	25.7	12.2	20.0	7.3
1952	126	4,767	25.4	12.1	17.2	7.0
1953	96	4,941	32.6	12.4	28.5	7.4
1954	108	4,825	39.5	13.5	34.2	8.1

[1] The median time interval from filing to disposition is computed by arranging all cases terminated during the year, in which a trial was held, in order according to the time from filing to disposition, from the lowest to the highest. The median time is then the time required for the middle case of the series or if there is an even number of cases, it is the average time for the 2 middle cases. The same procedure is followed in determining the median time from issue to trial. The median instead of the average is used because it prevents distortion of the result by a few nontypical long or short cases. No median has been computed where there were less than 25 cases.

The period from filing to disposition is the elapsed time from commencement to termination of the case. The period from issue to trial is the time from filing of the answer to the date trial is begun.

Land condemnation, habeas corpus, and forfeiture cases are not included because they are not representative of the time required for the general run of civil cases.

[2] These columns show the number of cases and the median time intervals for all districts having purely Federal jurisdiction (86 districts for 1949 and thereafter; 84 districts before 1949).

TABLE 4.—*Cases commenced per judgeship in the Eastern District of New York and in 86 districts in the fiscal year 1954 by nature of suit*

	Cases commenced per judgeship		National average: Cases terminated 1954: Percentage reaching trial [1]
	New York (eastern)	86 districts	
			Percent
Civil cases:			
Total cases	197	210	11
United States cases	83	84	9
Private cases	114	127	13
United States plaintiff	50	65	6
Land condemnation	1	3	
Fair Labor Standards Act	4	2	11
Other enforcement suits	9	3	13
Food and Drug Act	8	5	1
Liquor laws	1	3	28
Other forfeitures and penalties	4	4	3
Negotiable instruments	16	25	1
Other contracts	7	13	4
Other United States plaintiff	11	6	7
United States defendant	24	19	16
Enjoin Federal agencies	3	2	18
Habeas corpus		4	12
Tort Claims Act	10	5	17
Tax suits	3	4	19
Other United States defendant	9	4	16
Federal question	42	33	11
Copyright	2	1	6
Employers' Liability Act	14	6	22
Fair Labor Standards Act	1	1	12
Habeas corpus		3	4
Jones Act	11	10	5
Miller Act	4	2	13
Patent	4	3	17
Other Federal question	6	9	10
Diversity of citizenship	53	81	15
Insurance	3	14	14
Other contracts	5	15	16
Real property		3	17
Personal injury (motor vehicle)	10	30	14
Personal injury (other negligence)	32	14	16
Other diversity	3	5	14
Admiralty	19	13	8
Criminal cases	60	172	9

[1] This column shows, by nature of suit, the percentage of all cases which were terminated after reaching the trial stage in the 86 United States district courts having purely Federal jurisdiction. Because these figures have been relatively stable over a period of years, they are valuable in assessing the relative burden on each judge of the caseloads given in the other two columns in terms of the probability that a given number of cases in each category will actually reach trial.

TABLE 5.—*Method of disposition of various types of cases terminated in the eastern district of New York, fiscal year 1954*

Nature of suit	Number of cases	By default or dismissal for want of prosecution		By agreement of parties		By court action on motion before trial		By trial		Other	
		Number	Percent	Number	Percent	Number	Percent	Number	Percent	Number	Percent
Total cases	1,174	277	23.6	763	65.0	25	2.1	64	5.5	45	3.8
United States plaintiff:											
Federal Labor Standards Act	25	1	4.0	23	92.0			1	4.0		
Food and Drug	41	26	63.4	14	34.1			1	2.4		
Negotiable instruments	96	57	59.4	38	39.6			1	1.0		
United States defendant:											
Tax suit	9	2	22.2	6	66.7			1	11.1		
Federal tort claim:											
Personal injury (motor vehicle)	19	3	15.8	9	47.4			7	36.8		
Personal property (negligence)	13	2	15.4	7	53.8	1	7.7	1	7.7	2	15.4
Personal injury (other)	12	1	8.3	7	58.3			4	33.3		
Federal question:											
Employers' Liability Act	81	2	2.5	68	84.0			6	7.4	5	6.2
Jones Act	44	6	13.6	36	81.8			1	2.3	1	2.3
Patent	27	6	22.2	21	77.8						
Diversity of citizenship:											
Insurance	27	2	7.4	20	74.1	1	3.7	3	11.1	1	3.7
Other contract	36	9	25.0	23	63.9	3	8.3			1	2.8
Personal injury (motor vehicle)	40	7	17.5	27	67.5			2	5.0	4	10.0
Personal injury (other)	127	14	11.0	100	78.7	2	1.6	8	6.3	3	2.4
Admiralty	210	34	16.2	146	69.5	3	1.4	19	9.0	8	3.8

TABLE 6.—*Trials, eastern district of New York*

[As reported on form J. S. 10 to administrative office]

Fiscal year	Total trials	Civil trials	Criminal trials
1950	231	200	31
1951	141	123	18
1952	139	117	22
1953	114	103	11
1954	165	123	42
Average per year	158	133	25

APPENDIX 15

THE JUDICIAL BUSINESS OF THE UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF NEW YORK

The southern district of New York continues to have the most congested dockets of any district court in the Federal system, in spite of the addition of 4 judgeships in 1949 and 2 in 1954. The delay between calendaring and trial in personal injury-jury cases which are about half the total on the civil calendars is so great as to amount to a denial of justice in some cases. Beginning with the fiscal year 1954 the cases on the civil calendar were divided into five groups. As of January 28, 1955, the number of cases on each calendar and the months required to reach trial from the date of calendaring were as follows: jury personal injury cases, 2,921—43 months; other jury cases, 482—4 months; nonjury personal-injury and death cases, 350—4 months or less; nonjury other, 1,314—29 months; and admiralty, 1,158—19 months.

The tremendous caseload of pending civil cases on December 31, 1954, was 11,027, almost a sixth of all civil cases pending in all of the 94 United States district courts which have a total of 251 district judgeships. This mass of pending cases was largely built up from the end of World War II to the end of 1948, since which time it has been possible only to hold it even. However, cases on the civil calendar continued to grow in number until the end of 1951. In that year the Judicial Conference of the United States recommended a total of 5 additional judgeships of which 2 were recommended as temporary. In 1954, as has been previously stated, Congress created 2 permanent judgeships for the district. In a report to the House and Senate Judiciary Committees dated March 2, 1953, which appears in Senate Report No. 224 of the 83d Congress, 1st session, it was stated:

"A period of 3 years in reaching trial in the Federal court not only practically denies civil litigants their day in court but also reflects badly on the entire Federal court system. The question which is important in this connection is not whether relief should be granted but rather the extent of the relief to be granted. The recommendation of the Judicial Conference for 5 additional judgeships, 3 permanent and 2 temporary, was made after careful consideration. If adopted, the total permanent addition to the staff of judges will be 3, 2 additional temporary judgeships being provided in order to assist in bringing the dockets up to date. It should be stated candidly that it seems probable at the present time that three additional permanent judges will not be enough to handle the business of the district."

At the September 1954 session of the conference 3 additional permanent judgeships were recommended and it must be again stated that even with this addition there is considerable doubt that the present unmanageable dockets can be brought to a state of currency.

The general reasons for this condition are to be found in the economic expansion which has taken place in this country since the war and its reflection in the business transacted in New York City, which is the center of our financial and business enterprises. While Government activity has been expanding it is the rise in private cases which has caused the principal delays in the courts and this has grown out of the astonishing expansion of business, in national income, in employment, and automobile registrations. Gross national product in constant 1939 dollars has risen from $101 billion in 1940 to an estimated $170 billion in 1954, an increase of 70 percent and the estimated national income of $298.9 billion for 1954 is 3¾ times that of 1940. Total motor vehicle registrations in 1953 were 56 million compared with 32 million in 1940.

With the number of civil cases filed in the southern district of New York constantly far above the national average per judge the result has been the present docket condition which has already been referred to. The pending caseload and the percentage of the entire pending caseload in the United States of certain types of cases on June 30, 1954, was as follows:

Pending cases as of June 30, 1954

	New York (southern)	All districts	Percentage New York (southern) to all districts
Total civil cases	10,989	68,431	16.1
Private admiralty cases	2,895	5,528	52.4
Patent cases	226	1,096	20.8
Copyright cases	118	282	41.8
Antitrust cases brought by the United States	19	71	26.8
Jones Act cases for injury to seamen	2,631	4,151	63.4
Employers' liability for injury to railroad workmen	215	1,735	12.4
Private antitrust suits	129	512	25.2

It will be recognized that many of these types of cases involve difficult and time-consuming trials and a substantial amount of legal research.

On June 30, 1954, there were 10,989 civil cases pending in the southern district of New York with 18 judgeships. In all 86 districts having only Federal jurisdiction there were 59,005 civil cases pending before 229 district judges. The southern district of New York had 18.6 percent of the pending cases but only 7.9 percent of the judgepower. If the number of judges in the district had been increased to 21 the proportion of judges would have been 9.2 percent.

The causes for the present condition have been referred to. The following information will bring out in more detail what that condition is. Table A set out below shows the number of civil cases and the number of private civil cases filed per judge in this district as compared with the national average for each fiscal year from 1941 to 1954, and for the latter year shows what the caseload would have been compared to the national average if there had been 21 judges in the southern district of New York instead of 18. In most of the past 14 years the caseload per judge has been at least 50 percent above the national average, and even with 21 judges in 1954 it would still have been above the national average for civil cases. Private civil cases are listed separately because they take much more judicial time on the average than cases in which the United States is a party. With 21 judges the private caseload per judge in 1954 would have been 176 compared with the national average of 127.

TABLE A.—*Number of civil cases filed per judgeship in the southern district of New York compared with the national average, 1941–54*

Fiscal year	Number of judgeships	Total civil cases filed per judgeship		Private civil cases filed per judgeship	
		New York (southern)	National average [1]	New York (southern)	National average [1]
1941	13	277	164	184	82
1942	13	214	168	155	77
1943	13	227	158	152	58
1944	[2] 12	379	169	157	56
1945	12	558	295	141	57
1946	12	541	321	139	70
1947	12	614	271	304	109
1948	12	491	205	359	117
1949	12	448	238	326	121
1950	[3] 16	326	222	240	113
1951	16	309	204	231	111
1952	16	341	236	253	126
1953	16	367	261	275	146
1954	[4] 18	267	210	205	127
1954	[5] 21	229	208	176	126

[1] The average number of cases filed per judgeship for all districts having purely Federal jurisdiction: 84 districts from 1941 to 1948; 86 thereafter.
[2] Temporary judgeship expired.
[3] Four new judgeships created by act approved August 3, 1949.
[4] Two new judgeships created by act of February 10, 1954.
[5] Including the number of judges recommended for New York (southern) by the Judicial Conference.

Table B which follows gives the same type of comparison for civil cases which are pending. It shows the civil cases pending in this district per judge are over twice the national average and private civil cases pending per judge are over three times the national average. If the district had had 21 judges on June 30, 1954, the number of civil cases pending per judge would have been 523 compared with the national average in 86 districts of 254 and the number of private civil cases per judge would have been 423 compared with the national average of 161.

TABLE B.—*Number of cases pending per judgeship at the end of fiscal years 1941–54 in the southern district of New York compared with the national average* [1]

Fiscal year	Number of judgeships	Total civil cases pending per judgeship		Private civil cases pending per judgeship	
		New York (southern)	National average [1]	New York (southern)	National average [1]
1941	13	314	138	227	81
1942	13	269	138	204	74
1943	13	269	144	190	64
1944	12	373	150	206	62
1945	12	488	196	210	66
1946	12	620	223	235	77
1947	12	842	245	392	109
1948	12	904	235	562	131
1949	12	925	256	637	144
1950	16	696	239	516	139
1951	16	697	236	542	143
1952	16	714	259	560	155
1953	16	736	288	587	175
1954	18	611	258	494	163
1955	21	523	254	423	161

[1] See footnotes, Table A.

One reason for the docket condition in this district is that many long and hard cases are tried here. Many more Government antitrust cases are filed in this district than in any other, and some of them, such as the Investment Bankers case, take years of time.

Of 17 civil trials and 18 criminal trials terminated in the United States district courts during the fiscal year 1954 which required over 20 trial days each, 6 civil

and 1 criminal or one-fifth of the entire number were in the southern district of New York. Those trials were as follows:

Style of the case	Nature of proceeding	Number of trial days	Type of trial
CIVIL CASES			
International News v. *Curtis Publishing*	Antitrust	35	Nonjury.
C. I. T. v. *Glover*	Tort	34	Jury.
Reynolds v. *Pegler*	Libel	33	Do.
U. S. v. *International Longshoremen*	Taft-Hartley	29	Do.
Harvey Aluminum v. *American Cyanamid*	Contract	24	Nonjury.
Rutkin v. *Reinfield*	do	23	Jury.
CRIMINAL CASES			
U. S. v. *Costello*	Income tax	28	Do.

Table C shows the number of cases on the civil calendars at the end of each fiscal year from 1940–54 and on December 31, 1954.

TABLE C.—*Number of cases on the calendar of the southern district of New York at the end of each fiscal year, 1940–54*

Fiscal year	Total civil cases	Jury	Nonjury	Admiralty
1940	1,681	794	650	228
1941	1,701	720	730	251
1942	1,384	457	697	230
1943	762	220	276	266
1944	1,142	324	321	497
1945	1,679	473	357	849
1946	2,843	676	815	1,352
1947	4,011	1,252	1,047	1,712
1948	4,799	1,926	1,179	1,694
1949	5,582	2,511	1,270	1,801
1950	6,006	2,770	1,459	1,777
1951	6,358	3,141	1,504	1,713
1952	6,013	3,202	1,150	1,661
1953	6,213	3,342	1,179	1,692
1954	6,213	3,411	1,314	1,488
Dec. 31, 1954	6,279	3,452	1,620	1,207

Beginning June 30, 1953, a new calendar system was adopted. The cases on this calendar are as follows:

Date	Total	Calendar No. 1, jury personal injury and death	Calendar No. 2, jury, other	Calendar No. 3, nonjury, personal injury and death	Calendar No. 4, nonjury, other	Calendar No. 5, admiralty
June 30, 1953	6,213	2,814	528	580	989	1,302
June 30, 1954	6,213	2,891	520	345	1,189	1,268
Dec. 31, 1954	6,256	2,940	512	327	1,293	1,184

The time from calendaring to trial has steadily increased until now in personal injury suits where a jury is demanded litigants are being denied adequate relief by reason of delay.

Time from issue to trial in jury, nonjury, and admiralty cases tried in the southern district of New York, 1940–54

End of fiscal year—	Jury months	Nonjury months	Admiralty months
1946	8	7	15
1947	11	9	24
1948	15	13	27
1949	19	16	29
1950	25	23	30
1951	29	23	30
1952	35	26	27
1953	36	31	36

	Jury, personal injury	Jury, other	Nonjury, personal injury	Nonjury, other	Admiralty
1954	44	19	7	34	21
Jan. 28, 1955	43	4	4	29	19

More judges must be created for this court if litigants are to receive justice. Previous additions to its judgepower has not been sufficient and no headway has been made in clearing up arrearages. The chief judge of the district, John C. Knox, is an efficient administrator of his court and a judge of long experience and every effort has been made to increase the efficiency of the court but it is the considered judgement of the judges of that court, of the circuit council of the second circuit, and the Judicial Conference of the United States that additional judgepower should be provided. The addition of 3 more permanent judgeships was recommended by the Judicial Conference at its September 1954 session.

Since 1947 the number of criminal cases commenced annually has been between 850 and 1,050. While this caseload is not heavy in numbers in comparison with the number of judges in the district, a number of long and important criminal cases have been tried in the southern district including such widely known and prolonged trials as the Dennis case involving the first mass trial of communists under the Smith Act which required 168 trial days, the Flynn case involving the trial of the second-string Communists which lasted 154 days, the trial of Sergeant Provoo, the trial of Alger Hiss and during the past year a long income tax case, *U. S.* v. *Costello*. The number of criminal cases filed in 1954 was 924 and the number terminated 1,109. As of December 31, 1954, there were 760 pending criminal cases, a larger number than any other district except the District of Columbia, which has jurisdiction of local as well as Federal crimes. There are at the present time a number of criminal cases awaiting trial.

Statistical tables are attached.

Respectfully submitted.

WILL SHAFROTH,
Chief, Division of Procedural Studies and Statistics.

FEBRUARY 25, 1955.

Southern District of New York

Table 1.—*Cases commenced and terminated, by fiscal year, and pending at the end of each year, beginning with 1941*

TOTAL CIVIL CASES

Fiscal year	Commenced	Terminated	Pending June 30	Fiscal year	Commenced	Terminated	Pending June 30
1941	3,397	3,423	4,087	1949	5,380	5,130	11,098
1942	2,778	3,371	3,494	1950	5,210	5,174	11,134
1943	2,949	2,950	3,493	1951	4,946	4,932	11,148
1944	4,552	3,568	4,477	1952	5,453	5,173	11,428
1945	6,608	5,317	5,858	1953	5,871	5,531	11,768
1946	6,492	4,916	7,434	1954	4,803	5,582	10,989
1947	7,373	4,708	10,099	First half of 1955	2,225	2,187	11,027
1948	5,896	5,147	10,848				

UNITED STATES CIVIL CASES (UNITED STATES A PARTY)

[OPA cases are in parentheses [1]]

Fiscal year	Commenced	Terminated	Pending June 30	Fiscal year	Commenced	Terminated	Pending June 30
1941	1,202	1,147	1,138	1949	1,463 (284)	2,113	3,460
1942	761	1,052	847	1950	1,372 (245)	1,963	2,871
1943	972 (66)	800	1,019	1951	1,249 (3)	1,648	2,472
1944	2,664 (1,160)	1,673	2,010	1952	1,403 (75)	1,407	2,468
1945	5,011 (2,782)	3,684	3,337	1953	1,471 (103)	1,556	2,383
1946	4,827 (1,866)	3,550	4,614	1954	1,106	1,383	2,106
1947	3,728 (1,000)	2,949	5,393	First half of 1955	518	603	2,021
1948	1,694 (172)	2,877	4,110				

PRIVATE CIVIL CASES

Fiscal year	Commenced	Terminated	Pending June 30	Fiscal year	Commenced	Terminated	Pending June 30
1941	2,395	2,276	2,949	1949	3,917	3,017	7,638
1942	2,017	2,319	2,647	1950	3,836	3,211	8,263
1943	1,977	2,150	2,474	1951	3,697	3,284	8,676
1944	1,888	1,895	2,467	1952	4,050	3,766	8,960
1945	1,687	1,533	2,521	1953	4,409	3,975	9,385
1946	1,665	1,366	2,820	1954	3,697	4,199	8,883
1947	3,645	1,759	4,706	First half of 1955	1,707	1,584	9,006
1948	4,302	2,270	6,738				

CRIMINAL CASES

[Cases transferred are not included in "Commenced" and "Terminated" columns]

Fiscal year	Commenced	Terminated	Pending June 30	Fiscal year	Commenced	Terminated	Pending June 30
1941	1,095	1,091	1,041	1949	869	933	515
1942	1,150	1,123	1,068	1950	987	826	697
1943	1,189	1,211	1,046	1951	940	903	708
1944	1,471	1,512	1,005	1952	970	882	920
1945	1,506	1,565	946	1953	1,033	908	1,073
1946	1,266	1,481	731	1954	924	1,109	921
1947	1,317	1,357	730	First half of 1955	485	664	760
1948	933	1,148	538				

[1] OPA cases, including rent control, are separately listed because from 1945 to 1947 they constituted a large proportion of all civil cases commenced, although they required on the average a relatively small proportion of court time per case for disposition during those years. They are included in the figure which they follow.

TABLE 2.—*Cases commenced per judgeship*

TOTAL CIVIL CASES

Fiscal year	Southern district of New York			National average: Cases commenced per judgeship [1]
	Number of judgeships [1]	Cases commenced		
		Total	Per judgeship	
1941	13	3,597	277	164
1942	13	2,778	214	168
1943	13	2,949	227	158
1944	12	4,552	379	169
1945	12	6,698	558	295
1946	12	6,492	541	321
1947	12	7,373	614	271
1948	12	5,896	491	205
1949	12	5,380	448	238
1950	16	5,210	326	222
1951	16	4,946	309	204
1952	16	5,453	341	236
1953	16	5,871	367	261
1954	18	4,803	267	210

UNITED STATES CIVIL CASES (UNITED STATES A PARTY)

Fiscal year	Southern district of New York		National average: Cases commenced per judgeship [1]	Fiscal year	Southern district of New York		National average: Cases commenced per judgeship [1]
	Cases commenced	Cases commenced per judgeship			Cases commenced	Cases commenced per judgeship	
1941	1,202	92	83	1949	1,463	122	118
1942	761	59	91	1950	1,374	86	109
1943	972	75	100	1951	1,249	78	93
1944	2,664	222	113	1951	1,249	78	93
1945	5,011	418	238	1952	1,403	82	110
1946	4,827	402	251	1953	1,471	92	116
1947	3,728	311	162	1954	1,106	61	84
1948	1,594	133	87				

PRIVATE CIVIL CASES

Fiscal year	Southern district of New York		National average: Cases commenced per judgeship [1]	Fiscal year	Southern district of New York		National average: Cases commenced per judgeship [1]
	Cases commenced	Cases commenced per judgeship			Cases commenced	Cases commenced per judgeship	
1941	2,395	184	82	1948	4,302	359	117
1942	2,017	155	77	1949	3,917	326	121
1943	1,977	152	58	1950	3,836	240	113
1944	1,888	157	56	1951	3,697	231	111
1945	1,687	141	57	1952	4,050	253	126
1946	1,665	139	70	1953	4,400	275	146
1947	3,645	304	109	1954	3,697	205	127

See footnotes at end of table, p. 148.

TABLE 2.—*Cases commenced per judgeship*—Continued

CRIMINAL CASES

Fiscal year	Southern district of New York		National average: Cases commenced per judgeship [1]	Fiscal year	Southern district of New York		National average: Cases commenced per judgeship [1]
	Cases commenced	Cases commenced per judgeship			Cases commenced	Cases commenced per judgeship	
1941	1,095	84	165	1948	933	78	167
1942	1,150	88	174	1949	869	72	177
1943	1,189	91	190	1950	987	62	169
1944	1,471	123	211	1951	940	59	180
1945	1,506	126	209	1952	970	61	177
1946	1,266	106	171	1953	1,033	65	171
1947	1,317	110	173	1954	924	51	172

[1] This column includes 86 districts for 1949 and thereafter; 84 districts before 1949.

Because caseload figures are given to the nearest whole number, it is not always possible to derive exact totals by adding component parts.

TABLE 3.—*Time intervals in civil cases terminated in which a trial was held, for each fiscal year beginning with 1945*

CURRENCY OF DOCKETS

Fiscal year	Total cases terminated after trial		Median time intervals (in months) [1]			
			Filing to disposition		Issue to trial	
	New York (southern)	National [2]	New York (southern)	National [2]	New York (southern)	National [2]
1945	340	2,883	15.2	9.0	8.2	5.3
1946	325	3,421	16.0	8.9	10.1	5.0
1947	277	3,963	17.9	9.0	11.4	5.1
1948	311	4,548	22.5	9.9	15.1	5.8
1949	313	4,847	25.7	10.4	18.8	5.9
1950	249	5,020	32.4	11.2	21.1	6.7
1951	380	5,085	35.4	12.2	28.5	7.3
1952	258	4,767	41.2	12.1	33.1	7.0
1953	291	4,941	47.3	12.4	37.2	7.4
1954	298	4,825	45.0	13.5	35.9	8.1

[1] The median time interval from filing to disposition is computed by arranging all cases terminated during the year, in which a trial was held, in order according to the time from filing to disposition, from the lowest to the highest. The median time is then the time required for the middle case of the series or if there is an even number of cases, it is the average time for the 2 middle cases. The same procedure is followed in determining the median time from issue to trial. The median instead of the average is used because it prevents distortion of the result by a few nontypical long or short cases. No median has been computed where there were less than 25 cases.

The period from filing to disposition is the elapsed time from commencement to termination of the case. The period from issue to trial is the time from filing of the answer to the date trial is begun.

Land condemnation, habeas corpus, and forfeiture cases are not included because they are not representative of the time required for the general run of civil cases.

[2] These columns show the number of cases and the median time intervals for all districts having purely Federal jurisdiction: 86 districts for 1949 and thereafter; 84 districts before 1949.

TABLE 4.—*Cases commenced per judgeship in the southern district of New York and in 86 districts in the fiscal year 1954, by nature of suit*

	Cases commenced per judgeship		National average: Cases terminated 1954: Percentage reaching trial [1]
	New York (southern)	86 districts	
Civil cases:			*Percent*
Total cases	267	210	11
United States cases	61	84	9
Private cases	205	127	13
United States plaintiff	28	65	6
Land condemnation		3	
Fair Labor Standards Act	2	2	11
Other enforcement suits	8	3	13
Food and Drug Act	5	5	1
Liquor laws	1	3	28
Other forfeitures and penalties	2	4	8
Negotiable instruments	2	25	1
Other contracts	5	13	4
Other United States plaintiff	3	6	7
United States defendant	34	19	16
Enjoin Federal agencies	4	2	18
Habeas corpus	9	4	12
Tort Claims Act	4	5	17
Tax suits	3	4	19
Other United States defendant	13	4	16
Federal question	92	33	11
Copyright	3	1	6
Employers' Liability Act	6	6	22
Fair Labor Standards Act		1	12
Habeas corpus		3	4
Jones Act	66	10	5
Miller Act		2	12
Patent	5	3	17
Other Federal question	10	9	10
Diversity of citizenship	48	81	15
Insurance	3	14	14
Other contracts	16	15	16
Real property		3	17
Personal injury (motor vehicle)	8	30	14
Personal injury (other negligence)	16	14	16
Other diversity	5	5	14
Admiralty	66	13	8
Criminal cases	51	172	9

[1] This column shows, by nature of suit, the percentage of all cases which were terminated after reaching the trial stage in the 86 United States district courts having purely Federal jurisdiction. Because these figures have been relatively stable over a period of years, they are valuable in assessing the relative burden on each judge of the caseloads given in the other 2 columns in terms of the probability that a given number of cases in each category will actually reach trial.

APPENDIX 16

THE JUDICIAL BUSINESS OF THE UNITED STATES DISTRICT COURTS FOR THE EASTERN, MIDDLE, AND WESTERN DISTRICTS OF NORTH CAROLINA

There is now 1 judge in each of the 3 districts in North Carolina. A very considerable expansion has occurred in the civil business of the United States district courts in that State since 1951 when a proposal for an additional judgeship in North Carolina was being advocated by the late Senator Willis Smith. At that time the judicial conference of the fourth circuit took no action but at its meeting in Hot Springs, Va., on June 30, 1954, a proposal for an additional judge to serve in all three districts was unanimously adopted. Subsequently, in

September 1954, the same recommendation was approved by the Judicial Conference of the United States.

The following table covering the last 4 years shows the large increase in the judicial business of these districts:

Cases filed

Fiscal year	North Carolina (eastern)		North Carolina (middle)		North Carolina (western)	
	Civil	Criminal	Civil	Criminal	Civil	Criminal
1951	252	635	141	323	168	316
1952	373	522	225	561	193	326
1953	296	561	257	529	208	454
1954	360	560	209	623	212	406

Average per judgeship

Fiscal year	North Carolina (eastern, middle, and western)		National average	
	Civil	Criminal	Civil	Criminal (except immigration)
1951	187	491	204	106
1952	264	470	236	112
1953	254	515	251	114
1954	280	530	210	103

While the civil caseload per judge for the State in 1954 was one-third above the national average, the number of criminal cases was five times the national average if immigration cases are excluded. Criminal cases take much less time than civil cases as a rule but the criminal load in this State is a heavy burden. In 1954 the western district, having the lightest caseload of the 3 with 406 criminal cases filed, had a heavier criminal caseload per judge than any other district court outside of North Carolina if immigration cases are not counted. The immigration cases occur in great numbers in the five districts bordering on Mexico but are usually disposed of very rapidly on pleas of guilty. Almost two-thirds of the defendants in criminal cases in North Carolina are charged with liquor-tax violations.

The number of trials in recent years has been increasing rapidly as the following figures show:

Trials

Fiscal year	North Carolina (eastern)			North Carolina (middle)			North Carolina (western)		
	Total	Civil	Criminal	Total	Civil	Criminal	Total	Civil	Criminal
1951	185	41	144	107	21	86	75	17	58
1952	191	47	144	129	25	104	84	15	69
1953	211	52	159	116	21	95	140	42	98
1954	267	55	212	137	35	102	122	22	100

But even with more trials and more dispositions by the judges the pending load of civil cases has been constantly increasing during this period.

The figures are as follows:

PENDING CIVIL CASES

Fiscal year	North Carolina (eastern)	North Carolina (middle)	North Carolina (western)
1951	241	80	153
1952	263	117	187
1953	271	144	197
1954	226	148	210

In the eastern district where the pressure has been the heaviest the result has been a median of 14.2 months from filing to disposition.

In the middle district the median in 1954 was 9.3 months, and for the western district for 1953 and 1954 combined (for a better statistical base because the number of trials in 1954 was less than 25) the median was 12.4 months.

It may also be added that North Carolina has the largest population per judgeship in the fourth circuit. With a larger population than Virginia, it has two less judges and a comparison with other States of comparable population shows that its ratio of population per judge is high.

State	Population [1]	Number of judgeships	Population per judgeship
North Carolina	4,180,000	3	1,393,333
Wisconsin	3,539,000	3	1,179,667
Indiana	4,104,000	4	1,026,000
Georgia	3,515,000	5	703,000
Virginia	3,498,000	5	699,600
Missouri	4,056,000	6	676,000
Tennessee	3,257,000	5	651,400

[1] 1952 estimate from Statistical Abstract of the United States 1953.

Other States with smaller population but an equal or larger number of judgeships are as follows:

State	Population	Number of judgeships	Population per judgeship
Alabama	3,051,000	4	762,650
Minnesota	3,021,000	4	755,250
Kentucky	2,916,000	4	729,000
South Carolina	2,130,000	3	710,000
Louisiana	2,816,000	4	704,000
West Virginia	1,951,000	3	650,333
Arkansas	1,876,000	3	625,333
Washington	2,467,000	4	616,750
Oregon	1,594,000	3	531,333
Florida	3,100,000	6	516,667
Oklahoma	2,265,000	5	453,000

In the fourth circuit the comparison is as follows:

District	Population	Number of judgeships	Population per judgeship
North Carolina	4,180,000	3	1,393,333
Maryland	2,526,000	2	1,263,000
South Carolina	2,130,000	3	710,000
Virginia	3,498,000	5	699,600
West Virginia	1,951,000	3	650,333

While population per judgeship by itself is not a reliable indication of judicial need, it is a factor to be considered.

The North Carolina judges have worked diligently to dispose of their judicial business but the pending cases have been increasing in spite of their efforts.

Judge Johnson J. Hayes of the middle district, an able judge of more than 25 years' experience on the bench, recently wrote from Greensboro:

"I have been holding court here through January and this month (February) trying to reduce the civil docket. They have put 19 more cases on the calendar during the same time than I have been able to get off.

"During the fall of 1954 we were kept in court virtually all the time. The civil docket and criminal docket were both heavy, which deprived me of an opportunity to dispose of cases that had been argued and briefs submitted. * * *

"I really need help here, and need it badly."

The total civil cases, private civil cases and criminal cases commenced in these three districts during the first half of the fiscal years 1954 and 1955 are as follows:

Fiscal year	North Carolina, eastern	North Carolina, middle	North Carolina, western
Total civil:			
First half of 1954	165	166	94
First half of 1955	159	83	91
Private civil:			
First half of 1954	54	48	35
First half of 1955	51	28	33
Criminal:			
First half of 1954	270	268	191
First half of 1955	307	208	278

The number of trials in 1954 by nature of suit is shown in exhibit A attached and this is followed by four detailed tables showing the judicial business of each district since 1941.

Respectfully submitted.

WILL SHAFROTH,
Chief, Division of Procedural Studies and Statistics.

FEBRUARY 25, 1955.

EASTERN DISTRICT OF NORTH CAROLINA

TABLE 1.—*Cases commenced and terminated, by fiscal year, and pending at the end of each year, beginning with 1941*

TOTAL CIVIL CASES

Fiscal year	Commenced	Terminated	Pending June 30	Fiscal year	Commenced	Terminated	Pending June 30
1941	250	258	111	1948	132	140	135
1942	208	148	171	1949	210	172	173
1943	178	169	180	1950	268	204	237
1944	168	185	163	1951	252	248	241
1945	260	244	179	1952	373	351	263
1946	216	264	131	1953	296	288	271
1947	188	176	143	1954	360	305	326

UNITED STATES CIVIL CASES (UNITED STATES A PARTY)

[OPA cases are in parentheses[1]]

Fiscal year	Commenced	Terminated	Pending June 30	Fiscal year	Commenced	Terminated	Pending June 30
1941	195	191	58	1948	86 (16)	99	66
1942	138	97	99	1949	135 (19)	116	87
1943	135 (29)	109	125	1950	179 (12)	138	128
1944	146 (39)	154	117	1951	150 (8)	158	120
1945	236 (97)	225	128	1952	240 (83)	245	115
1946	182 (88)	236	74	1953	193 (11)	190	118
1947	147 (69)	140	81	1954	231	212	137

See footnote at end of table, p. 153.

TABLE 1.—*Cases commenced and terminated, by fiscal year, and pending at the end of each year, beginning with 1941*—Continued

PRIVATE CIVIL CASES

Fiscal year	Commenced	Terminated	Pending June 30	Fiscal year	Commenced	Terminated	Pending June 30
1941	55	67	53	1948	46	41	67
1942	70	51	72	1949	75	56	86
1943	43	60	55	1950	89	66	109
1944	22	31	46	1951	102	90	121
1945	24	19	51	1952	133	106	148
1946	34	28	57	1953	103	98	153
1947	41	36	62	1954	129	93	189

CRIMINAL CASES

[Cases transferred are not included in "Commenced" and "Terminated" columns]

Fiscal year	Commenced	Terminated	Pending June 30	Fiscal year	Commenced	Terminated	Pending June 30
1941	519	523	66	1948	350	357	61
1942	461	463	64	1949	643	542	171
1943	605	615	54	1950	730	710	204
1944	691	683	62	1951	635	703	142
1945	845	801	106	1952	522	575	109
1946	463	499	70	1953	561	588	89
1947	449	454	62	1954	560	548	97

[1] OPA cases, including rent control, are separately listed because from 1945 to 1947 they constituted a large proportion of all civil cases commenced, although they required on the average a relatively small proportion of court time per case for disposition during those years. They are included in the figure which they follow.

TABLE 2.—*Cases commenced per judgeship*

TOTAL CIVIL CASES

Fiscal year	North Carolina (eastern)		National average: Cases commenced per judgeship [1]	Fiscal year	North Carolina (eastern)		National average: Cases commenced per judgeship [1]
	Number of judgeships	Cases commenced per judgeship			Number of judgeships	Cases commenced per judgeship	
1941	1	250	164	1948	1	132	205
1942	1	208	168	1949	1	210	238
1943	1	178	158	1950	1	268	222
1944	1	168	160	1951	1	252	204
1945	1	260	295	1952	1	373	236
1946	1	216	321	1953	1	296	261
1947	1	188	271	1954	1	360	210

UNITED STATES CIVIL CASES (UNITED STATES A PARTY)

Fiscal year	North Carolina (eastern)	National average: Cases commenced per judgeship [1]	Fiscal year	North Carolina (eastern)	National average: Cases commenced per judgeship [1]
	Cases commenced per judgeship			Cases commenced per judgeship	
1941	193	83	1948	86	87
1942	138	91	1949	135	118
1943	135	100	1950	179	109
1944	146	113	1951	150	93
1945	236	238	1952	240	110
1946	182	251	1953	193	115
1947	147	162	1954	231	84

See footnotes at end of table, p. 154.

TABLE 2.—*Cases commenced per judgeship*—Continued

PRIVATE CIVIL CASES

Fiscal year	North Carolina (eastern)	National average: Cases commenced per judgeship [1]	Fiscal year	North Carolina (eastern)	National average: Cases commenced per judgeship [1]
	Cases commenced per judgeship			Cases commenced per judgeship	
1941	55	82	1948	46	117
1942	70	77	1949	75	121
1943	43	58	1950	89	113
1944	22	56	1951	102	111
1945	24	57	1952	133	126
1946	34	70	1953	103	146
1947	41	109	1954	129	127

CRIMINAL CASES

Fiscal year	North Carolina (eastern)	National average: Cases commenced per judgeship [1]	Fiscal year	North Carolina (eastern)	National average: Cases commenced per judgeship [1]
	Cases commenced per judgeship			Cases commenced per judgeship	
1941	519	165	1948	350	167
1942	461	174	1949	643	177
1943	605	190	1950	730	169
1944	691	211	1951	635	180
1945	845	209	1952	522	177
1946	463	171	1953	561	171
1947	449	173	1954	560	172

[1] This column includes 86 districts for 1949 and thereafter; 84 districts before 1949.

Because caseload figures are given to the nearest whole number, it is not always possible to derive exact totals by adding component parts.

TABLE 3.—*Time intervals in civil cases terminated in which a trial was held, for each fiscal year beginning with 1945*

CURRENCY OF DOCKETS

Fiscal year	Total cases terminated after trial		Median time intervals (in months) [1]			
			Filing to disposition		Issue to trial	
	North Carolina (eastern)	National [2]	North Carolina (eastern)	National [2]	North Carolina (eastern)	National [2]
1945	16	2,883	----------	9.0	----------	5.3
1946	20	3,421	----------	8.9	----------	5.0
1947	15	3,963	----------	9.0	----------	5.1
1948	20	4,548	----------	9.9	----------	5.8
1949	17	4,847	----------	10.4	----------	5.9
1950	19	5,020	----------	11.2	----------	6.7
1951	26	5,085	12.4	12.2	9.8	7.3
1952	29	4,767	11.4	12.1	6.6	7.0
1953	30	4,941	14.9	12.4	7.2	7.4
1954	32	4,825	14.2	13.5	7.8	8.1

[1] The median time interval from filing to disposition is computed by arranging all cases terminated during the year, in which a trial was held, in order according to the time from filing to disposition, from the lowest to the highest. The median time is then the time required for the middle case of the series or if there is an even number of cases, it is the average time for the 2 middle cases. The same procedure is followed in determining the median time from issue to trial. The median instead of the average is used because it prevents distortion of the result by a few nontypical long or short cases. No median has been computed where there were less than 25 cases.

The period from filing to disposition is the elapsed time from commencement to termination of the case. The period from issue to trial is the time from filing of the answer to the date trial is begun.

Land condemnation, habeas corpus, and forfeiture cases are not included because they are not representative of the time required for the general run of civil cases.

[2] These columns show the number of cases and the median time intervals for all districts having purely Federal jurisdiction: 86 districts for 1949 and thereafter; 84 districts before 1949.

TABLE 4.—*Cases commenced per judgeship in the eastern district of North Carolina and in 86 districts in the fiscal year 1954 by nature of suit*

	Cases commenced per judgeship		National average: Cases terminated 1954: Percentage reaching trial [1]
	North Carolina (eastern)	86 districts	
Civil cases:			*Percent*
Total cases	360	210	11
United States cases	231	84	9
Private cases	129	127	13
United States plaintiff	206	65	6
Land condemnation	2	3	----
Fair Labor Standards Act	4	2	11
Other enforcement suits	1	3	13
Food and Drug Act	4	5	1
Liquor laws	46	3	28
Other forfeitures and penalties	6	4	8
Negotiable instruments	57	25	1
Other contracts	82	13	4
Other United States plaintiff	6	6	7
United States defendant	23	19	16
Enjoin Federal agencies	2	2	18
Habeas corpus	----	4	12
Tort Claims Act	10	5	17
Tax suits	5	4	19
Other United States defendant	6	4	16
Federal question	20	33	11
Copyright	----	1	6
Employers' Liability Act	2	6	22
Fair Labor Standards Act	----	1	12
Habeas corpus	2	3	4
Jones Act	----	10	5
Miller Act	9	2	12
Patent	1	3	17
Other Federal question	6	9	10
Diversity of citizenship	94	81	15
Insurance	9	14	14
Other contracts	13	15	16
Real property	1	3	17
Personal injury (motor vehicle)	46	30	14
Personal injury (other negligence)	17	14	16
Other diversity	8	5	14
Admiralty	15	13	8
Criminal cases	560	172	9

[1] This column shows, by nature of suit, the percentage of all cases which were terminated after reaching the trial stage in the 86 United States district courts having purely Federal jurisdiction. Because these figures have been relatively stable over a period of years, they are valuable in assessing the relative burden on each judge of the caseloads given in the other two columns in terms of the probability that a given number of cases in each category will actually reach trial.

Middle District of North Carolina

TABLE 1.—*Cases commenced and terminated, by fiscal year, and pending at the end of each year, beginning with 1941*

TOTAL CIVIL CASES

Fiscal year	Commenced	Terminated	Pending June 30	Fiscal year	Commenced	Terminated	Pending June 30
1941	128	138	55	1948	116	135	54
1942	129	122	62	1949	160	134	80
1943	105	102	65	1950	150	161	69
1944	86	98	53	1951	141	130	80
1945	176	149	80	1952	225	188	117
1946	136	155	61	1953	257	230	144
1947	143	131	73	1954	269	265	148

UNITED STATES CIVIL CASES (UNITED STATES A PARTY)

[OPA cases are in parentheses [1]]

Fiscal year	Commenced	Terminated	Pending June 30	Fiscal year	Commenced	Terminated	Pending June 30
1941	90	93	21	1948	93 (8)	101	37
1942	91	84	28	1949	118 (12)	111	44
1943	78 (6)	68	38	1950	100 (9)	112	32
1944	71 (16)	75	35	1951	90	82	40
1945	156 (71)	126	65	1952	164 (19)	146	58
1946	111 (51)	139	37	1953	183 (8)	167	74
1947	103 (34)	95	45	1954	190	180	84

PRIVATE CIVIL CASES

Fiscal year	Commenced	Terminated	Pending June 30	Fiscal year	Commenced	Terminated	Pending June 30
1941	38	45	34	1948	23	34	17
1942	38	38	34	1949	42	23	36
1943	27	34	27	1950	50	49	37
1944	14	23	18	1951	51	48	40
1945	20	23	15	1952	61	42	59
1946	25	16	24	1953	74	63	70
1947	40	36	28	1954	79	85	64

CRIMINAL CASES

[Cases transferred are not included in "Commenced" and "Terminated" columns]

Fiscal year	Commenced	Terminated	Pending June 30	Fiscal year	Commenced	Terminated	Pending June 30
1941	527	529	103	1948	341	298	111
1942	436	379	161	1949	424	422	105
1943	503	482	182	1950	454	408	143
1944	645	675	152	1951	523	527	131
1945	609	597	164	1952	561	517	144
1946	392	452	104	1953	529	534	123
1947	351	368	80	1954	623	530	199

[1] OPA cases, including rent control, are separately listed because from 1945 to 1947 they constituted a large proportion of all civil cases commenced, although they required on the average a relatively small proportion of court time per case for disposition during those years. They are included in the figure which they follow.

TABLE 2.—*Cases commenced per judgeship*

TOTAL CIVIL CASES

Fiscal year	North Carolina (middle)		National average: Cases commenced per judgeship [1]	Fiscal year	North Carolina (middle)		National average: Cases commenced per judgeship [1]
	Number of judgeships	Cases commenced per judgeship			Number of judgeships	Cases commenced per judgeship	
1941	1	128	164	1948	1	116	205
1942	1	129	168	1949	1	160	238
1943	1	105	158	1950	1	150	222
1944	1	86	160	1951	1	141	204
1945	1	176	295	1952	1	225	236
1946	1	136	321	1953	1	257	251
1947	1	143	271	1954	1	269	210

UNITED STATES CIVIL CASES (UNITED STATES A PARTY)

Fiscal year	North Carolina (middle): Cases commenced per judgeship	National average: Cases commenced per judgeship [1]	Fiscal year	North Carolina (middle): Cases commenced per judgeship	National average: Cases commenced per judgeship [1]
1941	90	83	1948	93	87
1942	91	91	1949	118	119
1943	78	100	1950	100	109
1944	72	113	1951	90	93
1945	156	238	1952	164	110
1946	111	251	1953	183	115
1947	103	162	1954	190	94

PRIVATE CIVIL CASES

Fiscal year	North Carolina (middle): Cases commenced per judgeship	National average: Cases commenced per judgeship [1]	Fiscal year	North Carolina (middle): Cases commenced per judgeship	National average: Cases commenced per judgeship [1]
1941	38	82	1948	23	117
1942	38	77	1949	42	121
1943	27	58	1950	50	113
1944	14	58	1951	51	111
1945	20	57	1952	61	126
1946	25	70	1953	74	146
1947	40	109	1954	79	127

CRIMINAL CASES

Fiscal year	North Carolina (middle): Cases commenced per judgeship	National average: Cases commenced per judgeship [1]	Fiscal year	North Carolina (middle): Cases commenced per judgeship	National average: Cases commenced per judgeship [1]
1941	527	165	1948	341	167
1942	436	174	1949	424	177
1943	503	190	1950	454	169
1944	645	211	1951	523	180
1945	609	209	1952	561	177
1946	392	171	1953	529	171
1947	351	173	1954	623	172

[1] This column includes 86 districts for 1949 and thereafter; 84 districts before 1949.

Because caseload figures are given to the nearest whole number, it is not always possible to derive exact totals by adding component parts.

TABLE 3.—*Time intervals in civil cases terminated in which a trial was held, for each fiscal year beginning with 1945*

CURRENCY OF DOCKETS

Fiscal year	Total cases terminated after trial		Percentage of terminated cases requiring less than 6 months for the interval from filing to disposition		Percentage of terminated cases requiring less than 3 months for the interval from issue to trial	
	North Carolina (middle)	National [1]	North Carolina (middle)	National [1]	North Carolina (middle)	National [1]
1945	10	2,983	70.0	29.6	50.0	32.4
1946	24	3,421	37.5	29.3	37.5	33.4
1947	12	3,963	41.7	31.9	25.0	32.1
1948	19	4,548	10.5	26.7	15.8	27.4
1949	8	4,847	12.5	28.5	12.5	28.2
1950	18	5,020	53.3	22.3	20.0	24.5
1951	18	5,085	22.2	20.8	16.7	21.9
1952	23	4,767	21.7	21.1	21.7	22.8
1953	16	4,941	25.0	19.2	6.3	21.2
1954	32	4,825	28.1	17.1	21.9	19.1

[1] This column includes 86 districts for 1949 and thereafter; 84 districts before 1949.

The period from filing to disposition is the elapsed time from commencement to termination of the case. The period from issue to trial is the time from filing of the answer to the date trial is begun.

Land condemnation, habeas corpus, and forfeiture cases are not included because they are not representative of the time required for the general run of civil cases.

TABLE 4.—*Cases commenced per judgeship in the middle district of North Carolina and in 86 districts in the fiscal year 1954, by nature of suit*

	Cases commenced per judgeship		National average: Cases terminated 1954: Percentage reaching trial [1]
	North Carolina (middle)	86 districts	
Civil cases:			*Percent*
Total cases	269	210	11
United States cases	190	84	9
Private cases	79	127	13
United States plaintiff	179	65	6
Land condemnation	----	3	----
Fair Labor Standards Act	4	2	11
Other enforcement suits	1	3	13
Food and Drug Act	10	5	1
Liquor laws	39	3	28
Other forfeitures and penalties	1	4	8
Negotiable instruments	52	25	1
Other contracts	67	13	4
Other United States plaintiff	5	6	7
United States defendant	11	19	16
Enjoin Federal agencies	----	2	18
Habeas corpus	----	4	12
Tort Claims Act	2	5	17
Tax suits	9	4	19
Other United States defendant	----	4	16
Federal question	29	33	11
Copyright	----	1	6
Employers' Liability Act	----	6	22
Fair Labor Standards Act	4	1	12
Habeas corpus	----	3	4
Jones Act	----	10	5
Miller Act	----	2	12
Patent	21	3	17
Other Federal question	4	9	10
Diversity of citizenship	50	81	15
Insurance	8	14	14
Other contracts	11	15	16
Real property	1	3	17
Personal injury (motor vehicle)	17	30	14
Personal injury (other negligence)	4	14	16
Other diversity	9	5	14
Admiralty	----	13	8
Criminal cases	623	172	9

[1] This column shows, by nature of suit, the percentage of all cases which were terminated after reaching the trial stage in the 86 United States district courts having purely Federal jurisdiction. Because these figures have been relatively stable over a period of years, they are valuable in assessing the relative burden on each judge of the caseloads given in the other two columns in terms of the probability that a given number of cases in each category will actually reach trial.

Western District of North Carolina

TABLE 1.—*Cases commenced and terminated, by fiscal year, and pending at the end of each year, beginning with 1941*

TOTAL CIVIL CASES

Fiscal year	Commenced	Terminated	Pending June 30	Fiscal year	Commenced	Terminated	Pending June 30
1941	183	195	140	1948	153	180	140
1942	195	176	159	1949	242	246	136
1943	119	156	122	1950	166	150	153
1944	156	129	149	1951	168	167	153
1945	220	150	219	1952	193	159	187
1946	149	173	195	1953	208	198	197
1947	158	186	167	1954	212	199	210

UNITED STATES CIVIL CASES (UNITED STATES A PARTY)

[OPA cases are in parentheses [1]]

Fiscal year	Commenced	Terminated	Pending June 30	Fiscal year	Commenced	Terminated	Pending June 30
1941	136	130	85	1948	93 (19)	132	81
1942	140	113	112	1949	166 (33)	168	79
1943	96 (1)	118	90	1950	107 (19)	95	91
1944	131	103	118	1951	99	115	75
1945	191 (60)	128	181	1952	124 (11)	101	98
1946	122 (42)	150	153	1953	123 (3)	126	95
1947	127 (42)	160	120	1954	128	125	98

PRIVATE CIVIL CASES

Fiscal year	Commenced	Terminated	Pending June 30	Fiscal year	Commenced	Terminated	Pending June 30
1941	47	55	55	1948	60	48	59
1942	55	63	47	1949	76	78	57
1943	23	38	32	1950	59	55	61
1944	25	26	31	1951	69	52	78
1945	29	22	38	1952	69	58	89
1946	27	23	42	1953	85	72	102
1947	31	26	47	1954	84	74	112

CRIMINAL CASES

[Cases transferred are not included in "Commenced" and "Terminated" columns]

Fiscal year	Commenced	Terminated	Pending June 30	Fiscal year	Commenced	Terminated	Pending June 30
1941	513	475	229	1948	338	370	147
1942	515	536	208	1949	337	371	112
1943	355	413	150	1950	392	360	141
1944	450	439	161	1951	316	361	97
1945	396	386	171	1952	326	339	88
1946	320	337	154	1953	454	424	117
1947	406	384	179	1954	406	400	132

[1] OPA cases, including rent control, are separately listed because from 1945 to 1947 they constituted a large proportion of all civil cases commenced, although they required on the average a relatively small proportion of court time per case for disposition during those years. They are included in the figure which they follow.

TABLE 2.—*Cases commenced per judgeship*

TOTAL CIVIL CASES

Fiscal year	North Carolina (western)		National average: Cases commenced per judgeship [1]	Fiscal year	North Carolina (western)		National average: Cases commenced per judgeship [1]
	Number of judgeships	Cases commenced per judgeship			Number of judgeships	Cases commenced per judgeship	
1941	1	183	164	1948	1	153	205
1942	1	195	168	1949	1	242	238
1943	1	119	158	1950	1	166	222
1944	1	156	169	1951	1	168	204
1945	1	220	295	1952	1	193	236
1946	1	149	321	1953	1	208	261
1947	1	158	271	1954	1	212	210

UNITED STATES CIVIL CASES (UNITED STATES A PARTY)

Fiscal year	North Carolina (western), cases commenced per judgeship	National average: Cases commenced per judgeship [1]	Fiscal year	North Carolina (western), cases commenced per judgeship	National average: Cases commenced per judgeship [1]
1941	136	83	1948	93	87
1942	140	91	1949	166	113
1943	96	100	1950	107	109
1944	131	113	1951	99	93
1945	191	238	1952	124	110
1946	122	251	1953	123	115
1947	127	162	1954	128	84

PRIVATE CIVIL CASES

Fiscal year	North Carolina (western), cases commenced per judgeship	National average: Cases commenced per judgeship [1]	Fiscal year	North Carolina (western), cases commenced per judgeship	National average: Cases commenced per judgeship [1]
1941	47	82	1948	60	117
1942	55	77	1949	76	121
1943	23	58	1950	59	113
1944	25	56	1951	69	111
1945	29	57	1952	69	126
1946	27	70	1953	85	146
1947	31	109	1954	84	127

CRIMINAL CASES

Fiscal year	North Carolina (western), cases commenced per judgeship	National average: Cases commenced per judgeship [1]	Fiscal year	North Carolina (western), cases commenced per judgeship	National average: Cases commenced per judgeship [1]
1941	513	165	1948	338	167
1942	515	174	1949	337	177
1943	355	190	1950	392	169
1944	450	211	1951	316	180
1945	396	209	1952	326	177
1946	320	171	1953	454	171
1947	406	173	1954	406	172

[1] This column includes 86 districts for 1949 and thereafter; 84 districts before 1949.

Because caseload figures are given to the nearest whole number, it is not always possible to derive exact totals by adding component parts.

TABLE 3.—*Time intervals in civil cases terminated in which a trial was held, for each fiscal year beginning with 1945*

CURRENCY OF DOCKETS

Fiscal year	Total cases terminated after trial		Percentage of terminated cases requiring less than 6 months for the interval from filing to disposition		Percentage of terminated cases requiring less than 3 months for the interval from issue to trial	
	North Carolina (western)	National [1]	North Carolina (western)	National [1]	North Carolina (western)	National [1]
1945	9	2,883	22.2	29.6	22.2	32.4
1946	8	3,421	25.0	29.3	37.5	33.4
1947	8	3,963	50.0	31.9	50.0	32.1
1948	19	4,548	26.3	26.7	21.1	27.4
1949	31	4,847	41.9	28.5	29.0	28.2
1950	14	5,020	50.0	22.3	21.4	24.5
1951	23	5,085	8.7	20.8	8.7	21.9
1952	17	4,767	11.8	21.1	5.9	22.8
1953	23	4,941	13.0	19.2	4.3	21.2
1954	18	4,828	22.2	17.1	33.3	19.1

[1] This column includes 86 districts for 1949 and thereafter; 84 districts before 1949.

The period from filing to disposition is the elapsed time from commencement to termination of the case. The period from issue to trial is the time from filing of the answer to the date trial is begun.

Land condemnation, habeas corpus and forfeiture cases are not included because they are not representative of the time required for the general run of civil cases.

TABLE 4.—*Cases commenced per judgeship in the western district of North Carolina and in 86 districts in the fiscal year 1954 by nature of suit*

	Cases commenced per judgeship		National average: Cases terminated 1954: Percentage reaching trial [1]
	North Carolina (western)	86 districts	
			Percent
Civil cases:			
Total cases	212	210	11
United States cases	128	84	9
Private cases	84	127	13
United States plaintiff	120	65	6
Land condemnation	3	3	
Fair Labor Standards Act	2	2	11
Other enforcement suits		3	13
Food and Drug Act	9	5	1
Liquor laws	29	3	28
Other forfeitures and penalties	1	4	8
Negotiable instruments	46	25	1
Other contracts	26	13	4
Other United States plaintiff	4	6	7
United States defendant	8	19	16
Enjoin Federal agencies		2	18
Habeas corpus	4	4	12
Tort Claims Act	2	5	17
Tax suits	1	4	19
Other United States defendant	1	4	16
Federal question	9	33	11
Copyright		1	6
Employers' Liability Act		6	22
Fair Labor Standards Act		1	12
Habeas corpus		3	4
Jones Act		10	5
Miller Act		2	12
Patent	2	3	17
Other Federal question	7	9	10
Diversity of citizenship	75	81	15
Insurance	9	14	14
Other contracts	17	15	16
Real property		3	17
Personal injury (motor vehicle)	34	30	14
Personal injury (other negligence)	13	14	16
Other diversity	2	5	14
Admiralty		13	8
Criminal cases	406	172	9

[1] This column shows, by nature of suit, the percentage of all cases which were terminated after reaching the trial stage in the 86 United States District Courts having purely Federal jurisdiction. Because these figures have been relatively stable over a period of years, they are valuable in assessing the relative burden on each judge of the caseloads given in the other 2 columns in terms of the probability that a given number of cases in each category will actually reach trial.

APPENDIX 17

THE JUDICIAL BUSINESS OF THE UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF OHIO

The Judicial Code of 1911 provided for two district judges for the northern district of Ohio. An additional judge on a temporary basis was provided for by an act approved September 14, 1922 (42 Stat. 837), and was made permanent by the act of August 19, 1935 (49 Stat. 659). A fourth judgeship, created on a temporary basis by the act of May 1, 1941 (55 Stat. 148), was made permanent by an act approved August 3, 1949 (63 Stat. 495), and a fifth permanent judicial position was created by the act approved February 10, 1954 (Public Law 294, 83d Cong.).

At a special session in March 1953, the Judicial Conference of the United States recommended that there be six judicial positions in this district and this recommendation was reaffirmed in September 1953, April 1954, and September 1954.

This district is divided into two divisions, eastern and western. At the present time four judges reside in Cleveland, the headquarters for the eastern division, and the fifth judge resides in Toledo, the headquarters for the western division.

While the number of judgeships in this district in the last 14 years has been increased by only 1, from 4 to 5, the civil caseload has almost doubled from 661 in 1941 to an annual average of 1,191 for the last 3 fiscal years. The number of criminal cases has remained about the same, 347 in 1954 as compared with 366 in 1941.

With the exception of the fiscal year 1954 the civil caseload per judgeship in this district has exceeded the national average in each of the last 9 fiscal years, and in 1953 it was 322 compared with the national average of 261. However, in 1954 there was a decrease of 267 in the number of cases filed as compared with the previous year by reason of the expiration of rent and price controls under the Defense Production Act of 1950, and the consequent cessation of the filing of cases under that law. With the appointment of a fifth judge, the civil caseload dropped to 204, just slightly below the 210 civil cases commenced per judgeship nationally. The private civil caseload in 1954 was 127, which is exactly equal to the national average.

The caseload of incoming cases, however, does not by itself present a complete picture. In recent years there has been a heavy load of Government and private antitrust litigation and a larger-than-average amount of patent work. On June 30, 1954, there were 4 Government antitrust suits on the dockets and 43 private antitrust suits, 33 of which had been pending for more than 2 years. There were 39 patent cases pending. These and other types of private civil cases require a greater-than-average amount of judicial time for disposition and in the last 14 fiscal years the private civil caseload in the northern district of Ohio has equaled and in some years has greatly exceeded the national average. As a result there are arrearages on the dockets and congestion has resulted. On June 30, 1954, there were 1,615 civil cases pending as compared to 584 on June 30, 1941.

This is reflected in the time intervals for the disposition of cases by trial. During the fiscal year 1954 the median time interval from the filing to the disposition of cases terminated after trial was 27.9 months, or over twice the national median of 13.5 months. The interval from issue to trial was 15 months compared to the national median of 8.1 months.

The docket congestion, however, is in the eastern division at Cleveland, where the caseload per judge has been substantially higher than in the western division although even there the caseload in recent years has been average or above average. In 1954 the median time from filing to disposition of cases tried in Cleveland was 30.7 months and from issue to trial 22.3 months.

Separate tables are attached showing the filing and disposition of cases in the eastern and western divisions since 1941. Judge Kloeb at Toledo in the western district has managed to keep his dockets current in spite of several long and burdensome antitrust cases involving the glass industry which took a great deal of judicial time a few years ago. However he has had no time to devote to helping out the eastern division.

The judges of the eastern division at Cleveland, Judges Jones, Freed, McNamee, and Connell are laboring against a civil caseload which has practically doubled since the war. Moreover, that court has not been fully staffed for considerable periods of time. Following Judge Wilkin's retirement on August 31, 1949, there was a vacancy for 18 months which was finally filled by the appointment of Judge McNamee on March 9, 1951. The position now occupied by Judge Connell was vacant for 6 months following the passage of the act of February 10, 1954. The division has had its share of antitrust cases and other protracted litigation and, in spite of the earnest efforts of its able judges and some help from visiting judges, it has fallen far behind in the disposition of cases on its docket, so that in 1954 its median time from filing its disposition of cases tried was exceeded only by the southern and eastern districts of New York. Additional judgepower in this division is essential to bring the civil dockets up to date.

The number of total civil, private civil, and criminal cases commenced and terminated during the first half of the fiscal years 1954 and 1955 and the number pending at the end of the first of each year were as follows:

Fiscal year	Commenced	Terminated	Pending at end of first half
Total civil:			
First half of 1954	434	434	1,612
First half of 1955	465	375	1,705
Private civil:			
First half of 1954	343	198	1,216
First half of 1955	342	258	1,277
Criminal:			
First half of 1954	155	147	80
First half of 1955	171	164	80

While the civil dockets in the city of Cleveland are congested, the criminal dockets are current because of the priority which they are entitled to and receive. In Toledo, the dispatch with which criminal cases are handled is especially noteworthy. As of December 31, 1954, there were but 10 cases pending on the criminal docket there.

Complete statistical tables concerning the civil and criminal cases in the northern district of Ohio for the last 14 fiscal years are attached.

Respectfully submitted.

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FEBRUARY 23, 1955.

NORTHERN DISTRICT OF OHIO

TABLE 1.—*Cases commenced and terminated, by fiscal year, and pending at the end of each year, beginning with 1941*

TOTAL CIVIL CASES

Fiscal year	Commenced	Terminated	Pending June 30	Fiscal year	Commenced	Terminated	Pending June 30
1941	661	665	584	1948	876	1,011	770
1942	627	684	527	1949	1,176	921	1,025
1943	771	690	608	1950	1,125	1,009	1,141
1944	635	656	587	1951	1,017	931	1,227
1945	956	777	766	1952	1,261	974	1,514
1946	1,339	1,320	785	1953	1,289	1,200	1,612
1947	1,149	1,029	905	1954	1,022	1,019	1,615

TABLE 1.—*Cases commenced and terminated, by fiscal year, and pending at the end of each year, beginning with 1941*—Continued

UNITED STATES CIVIL CASES (UNITED STATES A PARTY)

[OPA cases are in parentheses [1]]

Fiscal year	Commenced	Terminated	Pending June 30	Fiscal year	Commenced	Terminated	Pending June 30
1941	266	247	121	1948	361 (145)	488	292
1942	290	246	165	1949	537 (286)	453	377
1943	415 (106)	309	271	1950	454 (206)	491	340
1944	370 (143)	364	296	1951	424 (153)	470	294
1945	714 (532)	510	490	1952	539 (230)	409	414
1946	1,048 (803)	1,077	461	1953	715 (303)	588	541
1947	661 (439)	706	416	1954	389	508	422

PRIVATE CIVIL CASES

Fiscal year	Commenced	Terminated	Pending June 30	Fiscal year	Commenced	Terminated	Pending June 30
1941	396	418	463	1948	515	526	478
1942	337	438	362	1949	639	469	648
1943	356	381	337	1950	671	518	801
1944	256	292	301	1951	593	461	933
1945	242	267	276	1952	732	565	1,100
1946	291	243	324	1953	583	612	1,071
1947	488	323	489	1954	633	511	1,193

CRIMINAL CASES

[Cases transferred are not included in "commenced" and "terminated" columns]

Fiscal year	Commenced	Terminated	Pending June 30	Fiscal year	Commenced	Terminated	Pending June 30
1941	366	343	149	1948	290	340	28
1942	364	354	159	1949	343	372	18
1943	373	381	151	1950	320	320	26
1944	631	631	151	1951	324	337	29
1945	488	478	161	1952	400	413	31
1946	370	488	43	1953	330	330	64
1947	329	315	69	1954	347	358	69

[1] OPA cases, including rent control, are separately listed because from 1945 to 1947 they constituted a large proportion of all civil cases commenced, although they required on the average a relatively small proportion of court time per case for disposition during those years. They are included in the figure which they follow.

TABLE 2.—*Cases commenced per judgeship*

TOTAL CIVIL CASES

Fiscal year	Northern district of Ohio			National average: Cases commenced per judgeship [1]
	Number of judgeships	Cases commenced		
		Total	Per judgeship	
1941	4	661	165	164
1942	4	627	157	168
1943	4	771	193	158
1944	4	635	159	169
1945	4	956	239	295
1946	4	1,339	335	321
1947	4	1,149	287	271
1948	4	876	219	205
1949	4	1,176	294	238
1950	4	1,125	281	222
1951	4	1,017	254	204
1952	4	1,261	315	236
1953	4	1,289	322	261
1954	5	1,022	204	210

See footnotes at end of table, p. 167.

TABLE 2.—*Cases commenced per judgeship*—Continued

UNITED STATES CIVIL CASES (UNITED STATES A PARTY)

Fiscal year	Northern district of Ohio		National average: Cases commenced per judgeship [1]	Fiscal year	Northern district of Ohio		National average: Cases commenced per judgeship [1]
	Cases commenced	Cases commenced per judgeship			Cases commenced	Cases commenced per judgeship	
1941	265	66	83	1948	361	90	87
1942	290	73	91	1949	537	134	118
1943	415	104	100	1950	454	114	109
1944	379	95	113	1951	424	106	93
1945	714	179	238	1952	529	133	110
1946	1,048	262	251	1953	715	179	115
1947	661	165	162	1954	389	78	84

PRIVATE CIVIL CASES

Fiscal year	Northern district of Ohio		National average: Cases commenced per judgeship [1]	Fiscal year	Northern district of Ohio		National average: Cases commenced per judgeship [1]
	Cases commenced	Cases commenced per judgeship			Cases commenced	Cases commenced per judgeship	
1941	396	99	82	1948	515	129	117
1942	337	84	77	1949	639	160	121
1943	356	89	58	1950	671	168	113
1944	256	64	56	1951	593	148	111
1945	242	61	57	1952	732	183	126
1946	291	73	70	1953	583	146	146
1947	488	122	109	1954	633	127	127

CRIMINAL CASES

Fiscal year	Northern district of Ohio		National average: Cases commenced per judgeship [1]	Fiscal year	Northern district of Ohio		National average: Cases commenced per judgeship [1]
	Cases commenced	Cases commenced per judgeship			Cases commenced	Cases commenced per judgeship	
1941	366	92	165	1948	290	73	167
1942	364	91	174	1949	343	86	177
1943	373	93	190	1950	320	80	169
1944	631	158	211	1951	324	81	180
1945	488	122	209	1952	406	102	177
1946	370	93	171	1953	339	85	171
1947	329	82	173	1954	347	69	172

[1] This column includes all districts having purely Federal jurisdiction: 86 districts for 1949 and thereafter; 84 districts before 1949.

Because caseload figures are given to the nearest whole number, it is not always possible to derive exact totals by adding component parts.

TABLE 3.—*Time intervals in civil cases terminated in which a trial was held, for each fiscal year beginning with 1945*

CURRENCY OF DOCKETS

Fiscal year	Total cases terminated after trial		Median time intervals (in months) [1]			
			Filing to disposition		Issue to trial	
	Ohio (northern)	National [2]	Ohio (northern)	National [2]	Ohio (northern)	National [2]
1945	47	2,883	17.0	9.0	11.5	5.3
1946	56	3,421	13.4	8.9	8.1	5.0
1947	85	3,963	12.5	9.0	7.4	5.1
1948	77	4,848	12.9	9.9	6.6	5.6
1949	57	4,847	11.0	10.4	6.5	5.9
1950	118	5,020	14.7	11.2	9.9	6.7
1951	82	5,085	17.7	12.2	11.3	7.3
1952	57	4,767	21.1	12.1	12.4	7.0
1953	101	4,941	21.4	12.4	12.9	7.4
1954	63	4,825	27.9	13.5	15.0	8.1

[1] The median time interval from filing to disposition is computed by arranging all cases terminated during the year, in which a trial was held, in order according to the time from filing to disposition, from the lowest to the highest. The median time is then the time required for the middle case of the series or if there is an even number of cases, it is the average time for the 2 middle cases. The same procedure is followed in determining the median time from issue to trial. The median instead of the average is used because it prevents distortion of the result by a few nontypical long or short cases. No median has been computed where there were less than 25 cases.

The period from filing to disposition is the elapsed time from commencement to termination of the case. The period from issue to trial is the time from filing of the answer to the date trial is begun.

Land condemnation, habeas corpus, and forfeiture cases are not included because they are not representative of the time required for the general run of civil cases.

[2] These columns show the number of cases and the median time intervals for all districts having purely Federal jurisdiction (86 districts for 1949 and thereafter; 84 districts before 1949).

TABLE 4.—*Cases commenced per judgeship in the northern district of Ohio and in 86 districts in the fiscal year 1954 by nature of suit*

	Cases commenced per judgeship		National average: Cases terminated 1954: Percentage reaching trial [1]
	Ohio (northern)	86 districts	
Civil cases:			*Percent*
Total cases	204	210	11
United States cases	78	84	9
Private cases	127	127	13
United States plaintiff	67	65	8
Land condemnation	1	3	
Fair Labor Standards Act	3	2	11
Other enforcement suits	2	3	13
Food and Drug Act	3	5	1
Liquor laws		3	28
Other forfeitures and penalties	7	4	3
Negotiable instruments	39	25	1
Other contracts	8	13	4
Other United States plaintiff	3	6	7
United States defendant	11	19	16
Enjoin Federal agencies	2	2	18
Habeas corpus	3	4	12
Tort Claims Act	1	5	17
Tax suits	4	4	19
Other United States defendant	1	4	16
Federal question	44	33	11
Copyright		1	6
Employers' Liability Act	17	6	22
Fair Labor Standards Act		1	12
Habeas corpus		2	4
Jones Act	15	10	5
Miller Act		2	12
Patent	3	3	17
Other Federal question	8	9	10
Diversity of citizenship	80	81	15
Insurance	4	14	14
Other contracts	11	15	16
Real property	3	3	17
Personal injury (motor vehicle)	41	30	14
Personal injury (other negligence)	17	14	16
Other diversity	4	5	14
Admiralty	3	13	8
Criminal cases	69	172	9

[1] This column shows, by nature of suit, the percentage of all cases which were terminated after reaching the trial stage in the 86 United States district courts having purely Federal jurisdiction. Because these figures have been relatively stable over a period of years, they are valuable in assessing the relative burden on each judge of the caseloads given in the other 2 columns in terms of the probability that a given number of cases in each category will actually reach trial.

Northern District of Ohio (Eastern Division)

Table 1.—*Cases commenced and terminated, by fiscal year, and pending at the end of each year, beginning with 1941*

TOTAL CIVIL CASES

Fiscal year	Commenced	Terminated	Pending June 30	Fiscal year	Commenced	Terminated	Pending June 30
1941	491	558	440	1949	938	669	926
1942	462	475	427	1950	906	770	1,062
1943	595	536	486	1951	809	729	1,142
1944	486	484	488	1952	998	766	1,374
1945	768	594	662	1953	1,091	980	1,485
1946	1,081	1,074	669	1954	837	833	1,489
1947	921	814	776	First half of 1955	374	288	1,575
1948	702	821	657				

UNITED STATES CIVIL CASES (UNITED STATES A PARTY)

[OPA cases are in parentheses [1]]

Fiscal year	Commenced	Terminated	Pending June 30	Fiscal year	Commenced	Terminated	Pending June 30
1945		378	436	1951	319 (142)	354	277
1946	853 (653)	886	403	1952	420 (196)	310	387
1947	540 (365)	877	366	1953	633 (284)	503	517
1948	280 (114)	385	261	1954	311	430	398
1949	396 (226)	316	341	First half of 1955	81	78	401
1950	324 (192)	353	312				

PRIVATE CIVIL CASES

Fiscal year	Commenced	Terminated	Pending June 30	Fiscal year	Commenced	Terminated	Pending June 30
1945		216	226	1951	490	375	855
1946	228	198	266	1952	578	456	987
1947	381	237	410	1953	458	477	968
1948	422	436	396	1954	526	403	1,091
1949	542	353	585	First half of 1955	293	210	1,174
1950	582	417	750				

CRIMINAL CASES

[Cases transferred are not included in "Commenced" and "Terminated" columns]

Fiscal year	Commenced	Terminated	Pending June 30	Fiscal year	Commenced	Terminated	Pending June 30
1942	271	255	142	1949	222	245	18
1943	266	272	136	1950	234	239	26
1944	444	439	141	1951	233	246	29
1945	324	313	152	1952	294	307	22
1946	256	366	42	1953	257	237	62
1947	240	226	60	1954	238	249	66
1948	197	247	23	First half of 1955	119	120	70

[1] OPA cases, including rent control, are separately listed because from 1945 to 1947 they constituted a large proportion of all civil cases commenced, although they required on the average a relatively small proportion of court time per case for disposition during those years. They are included in the figure which they follow.

Northern District of Ohio (Western Division)

TABLE 1.—*Cases commenced and terminated, by fiscal year, and pending at the end of each year, beginning with 1941*

Fiscal year	Commenced	Terminated	Pending June 30	Fiscal year	Commenced	Terminated	Pending June 30
1941	170	107	144	1949	238	252	99
1942	165	209	100	1950	219	239	79
1943	176	154	122	1951	208	202	85
1944	149	172	90	1952	263	208	140
1945	188	183	104	1953	207	220	127
1946	258	246	116	1954	185	186	126
1947	228	215	129	First half of 1955	91	87	130
1948	174	190	113				

UNITED STATES CIVIL CASES (UNITED STATES A PARTY)

[OPA cases are in parentheses [1]]

Fiscal year	Commenced	Terminated	Pending June 30	Fiscal year	Commenced	Terminated	Pending June 30
1945		132	84	1951	105 (11)	116	17
1946	195 (150)	191	58	1952	109 (34)	99	27
1947	121 (74)	129	50	1953	82 (19)	85	24
1948	81 (31)	100	31	1954	78	78	24
1949	141 (40)	136	36	First half of 1955	42	39	27
1950	130 (14)	138	28				

PRIVATE CIVIL CASES

Fiscal year	Commenced	Terminated	Pending June 30	Fiscal year	Commenced	Terminated	Pending June 30
1945		51	50	1951	103	88	68
1946	63	55	58	1952	154	109	113
1947	107	86	79	1953	125	135	103
1948	93	90	82	1954	107	108	102
1949	97	116	63	First half of 1955	49	48	103
1950	89	101	51				

CRIMINAL CASES

[Cases transferred are not included in "Commenced" and "Terminated" columns]

Fiscal year	Commenced	Terminated	Pending June 30	Fiscal year	Commenced	Terminated	Pending June 30
1942	93	99	17	1949	121	127	0
1943	107	109	15	1950	86	81	0
1944	187	192	10	1951	91	91	0
1945	164	165	9	1952	112	106	9
1946	114	122	1	1953	82	93	2
1947	89	89	2	1954	109	109	3
1948	93	93	5	First half of 1955	52	44	10

[1] OPA cases, including rent control, are separately listed because from 1945 to 1947 they constituted a large proportion of all civil cases commenced, although they required on the average a relatively small proportion of court time per case for disposition during those years. They are included in the figure which they follow.

APPENDIX 18

THE JUDICIAL BUSINESS OF THE UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF PENNSYLVANIA

There are eight judgeships authorized for this district and it shares in the services of the judge appointed for the eastern, middle, and western districts of the State. However this last position is a temporary one and will expire with the death, resignation, or retirement of the judge holding the position, or with the death, resignation, or retirement of 1 of the 2 judges in the middle district to whose position the roving judge will succeed. At the beginning of 1940, there were four judges in the eastern district. A fifth judgeship on a temporary basis, created in 1940, was made permanent in 1946, 2 additional judgeships were created in 1949, and 1 more in 1954. At its meeting in September 1952 the Judicial Conference of the United States recommended 2 additional judgeships and since the passage of the act of February 10, 1954, creating 1 judgeship it has successively renewed the recommendation for a ninth judgeship at each meeting since that date.

The principal place of holding court in the district is the city of Philadelphia, one of the largest centers of population in the country, and the district also embraces the Allentown-Bethlehem-Easton area which is also very heavily populated. In the years since the war private civil litigation in the district has increased rapidly. From a figure of 399 cases commenced during the fiscal year 1945, the private civil caseload went to 1,081 in 1947, and during 1954 there were 1,621 such cases commenced. In that year the private civil caseload per judgeship of cases filed stood at 195 compared to the national average of 127 cases per judgeship.

The district has considerably more than its share of negligence cases which include a number of different kinds of actions which are usually tried to a jury and these have been on the increase. Since 1948, personal injuries negligence cases brought under the diversity of citizenship jurisdiction have increased from an annual volume of 263 to 545, which is the 1954 figure. This amounts to 65 cases per judgeship (there are now 8 full-time judgeships but only 6 full-time judges) compared with the national average of 45. One hundred and five Employers' Liability Act cases involving injuries to railroad employees were brought in this district in 1954, or 13 per judgeship compared with the national average of 6 and 298 Jones Act cases involving injury to seamen or 36 per judgeship compared with the national average of 10. The large delays in getting to trial have inevitably worked hardships on litigants in these cases.

Private civil cases present a heavier burden than do other types of cases and the large caseloads have resulted in an increasing trend in pending civil cases. This trend has been steadily upward since 1943 as the following table shows:

Civil cases pending at the end of each fiscal year

Fiscal year	Total civil	United States civil	Private civil	Fiscal year	Total civil	United States civil	Private civil
1943	795	325	470	1949	2,490	635	1,855
1944	862	333	529	1950	2,761	715	2,046
1945	1,131	533	598	1951	2,912	775	2,137
1946	1,387	609	778	1952	3,141	753	2,388
1947	1,782	616	1,166	1953	3,568	842	2,726
1948	2,090	576	1,514	1954	4,093	922	3,171

The number of civil cases pending on June 30, 1954, was equivalent to 491 per judgeship, the fourth largest per judge in the Nation and the pending private civil caseload per judgeship was 381, the third largest nationally. These figures compare with national averages of 258 pending civil cases per judgeship and 163 pending private civil cases.

In addition to the large civil caseload, which has exceeded the national average for the last 8 fiscal years, vacancies in judicial positions have reduced the judge power and contributed to the rise in pending cases. One vacancy has existed since July 16, 1952, and another since the passage of the act of February 10, 1954. The median time interval from filing to disposition of civil cases terminated by a trial during the fiscal year 1954 was 24.7 months compared to 13.5 months nationally and the interval from issue to trial was 21.1 months compared with a

national figure of 8.1 months. The steady rise in these intervals as shown below indicates an increasing docket congestion which has reached the point where it may amount to a denial of justice in some cases.

Median time intervals in months for cases tried in the eastern district of Pennsylvania

Fiscal year	Filing to disposition	Issue to trial	Fiscal year	Filing to disposition	Issue to trial
1945	11.6	6.9	1950	17.8	12.8
1946	12.1	7.5	1951	19.0	14.9
1947	13.2	8.7	1952	21.1	15.9
1948	13.7	10.3	1953	25.8	19.7
1949	15.3	12.6	1954	24.7	21.1

On June 30, 1954, there were 309 criminal cases pending, 20 percent of which could not be tried because of fugitive defendants. In the years since the war the number of criminal cases filed has remained fairly constant.

The following figures show the number of civil, private civil, and criminal cases commenced and terminated in this district for the first half of the fiscal year 1955 as compared with the same period in 1954, and the number pending at the end of each period.

Fiscal year	Commenced	Terminated	Pending at end of the first half
Total civil:			
First half 1954	969	688	3,849
First half 1955	1,276	959	4,410
Private civil:			
First half 1954	826	535	3,017
First half 1955	685	447	3,409
Criminal:			
First half 1954	172	192	297
First half 1955	210	195	328

With a backlog of over 4,000 civil cases, a civil caseload per judge of cases filed larger than the national average, and a private civil caseload over 50 percent larger than the average, an additional judgeship for this district, as recommended by the Judicial Conference of the United States, is a pressing necessity.

Complete statistical tables showing the number of civil and criminal cases in the district for the last 14 years are attached.

Respectfully submitted.

JOSEPH F. SPANIOL, JR.,
Attorney, Division of Procedural Studies and Statistics,
Administrative Office of the United States Courts.

FEBRUARY 25, 1955.

EASTERN DISTRICT OF PENNSYLVANIA

TABLE 1.—*Cases commenced and terminated, by fiscal year, and ending at the end of each year, beginning with 1941*

TOTAL CIVIL CASES

Fiscal year	Commenced	Terminated	Pending June 30	Fiscal year	Commenced	Terminated	Pending June 30
1941	796	884	787	1948	1,489	1,181	2,090
1942	1,169	1,216	740	1949	1,607	1,207	2,490
1943	788	733	795	1950	1,701	1,430	2,761
1944	720	653	862	1951	1,689	1,538	2,913
1945	1,458	1,189	1,131	1952	1,821	1,592	3,141
1946	1,501	1,245	1,387	1953	1,969	1,542	3,568
1947	1,730	1,335	1,782	1954	2,148	1,623	4,093

UNITED STATES CIVIL CASES (UNITED STATES A PARTY)

[OPA cases are in parentheses [1]]

Fiscal year	Commenced	Terminated	Pending June 30	Fiscal year	Commenced	Terminated	Pending June 30
1941	342	301	249	1948	402 (92)	442	576
1942	738	733	254	1949	451 (152)	392	635
1943	444 (11)	373	325	1950	468 (107)	388	715
1944	401 (80)	393	333	1951	455 (156)	395	775
1945	1,059 (754)	859	533	1952	429 (144)	451	753
1946	948 (545)	872	609	1953	476 (132)	387	842
1947	649 (318)	642	616	1954	527	447	922

PRIVATE CIVIL CASES

Fiscal year	Commenced	Terminated	Pending June 30	Fiscal year	Commenced	Terminated	Pending June 30
1941	454	583	538	1948	1,087	739	1,514
1942	431	483	486	1949	1,156	815	1,855
1943	344	360	470	1950	1,233	1,042	2,046
1944	319	260	529	1951	1,234	1,143	2,137
1945	399	330	598	1952	1,392	1,141	2,388
1946	553	373	778	1953	1,493	1,155	2,726
1947	1,081	693	1,166	1954	1,621	1,176	3,171

CRIMINAL CASES

[Cases transferred are not included in "Commenced" and "Terminated" columns]

Fiscal year	Commenced	Terminated	Pending June 30	Fiscal year	Commenced	Terminated	Pending June 30
1941	476	489	191	1948	428	449	323
1942	649	572	268	1949	506	551	296
1943	1,549	1,045	772	1950	490	556	244
1944	1,040	1,167	645	1951	437	467	206
1945	896	913	628	1952	552	510	247
1946	505	668	465	1953	470	427	303
1947	486	631	324	1954	467	479	309

[1] OPA cases, including rent control, are separately listed because from 1945 to 1947 they constituted a large proportion of all civil cases commenced, although they required on the average a relatively small proportion of court time per case for disposition during those years. They are included in the figure which they follow.

TABLE 2.—*Cases commenced per judgeship*

TOTAL CIVIL CASES

Fiscal year	Eastern district of Pennsylvania			National average: Cases commenced per judgeship [1]
	Number of judgeships	Cases commenced		
		Total	Per judgeship	
1941	5	796	159	154
1942	5	1,169	234	168
1943	5	788	158	158
1944	5	720	144	169
1945	5	1,458	292	296
1946	5	1,501	300	321
1947	5½	1,730	315	271
1948	5½	1,489	270	205
1949	5½	1,607	301	238
1950	7½	1,701	232	222
1951	7½	1,689	230	204
1952	7½	1,821	248	238
1953	7½	1,969	269	261
1954	8½	2,148	258	210

UNITED STATES CIVIL CASES (UNITED STATES A PARTY)

Fiscal year	Eastern district of Pennsylvania		National average: Cases commenced per judgeship [1]	Fiscal year	Eastern district of Pennsylvania		National average: Cases commenced per judgeship [1]
	Cases commenced	Cases commenced per judgeship			Cases commenced	Cases commenced per judgeship	
1941	342	68	83	1948	402	75	87
1942	738	148	91	1949	451	85	118
1943	444	89	100	1950	468	64	109
1944	401	80	113	1951	455	62	93
1945	1,059	212	238	1952	429	59	110
1946	948	190	251	1953	476	65	115
1947	649	122	162	1954	527	63	84

PRIVATE CIVIL CASES

Fiscal year	Eastern district of Pennsylvania		National average: Cases commenced per judgeship [1]	Fiscal year	Eastern district of Pennsylvania		National average: Cases commenced per judgeship [1]
	Cases commenced	Cases commenced per judgeship			Cases commenced	Cases commenced per judgeship	
1941	454	91	82	1948	1,087	204	117
1942	431	86	77	1949	1,156	217	121
1943	344	69	58	1950	1,233	168	113
1944	319	64	56	1951	1,234	168	111
1945	399	80	57	1952	1,392	190	126
1946	553	111	70	1953	1,493	204	146
1947	1,081	204	109	1954	1,621	195	127

See footnotes at end of table, p. 176.

TABLE 2.—*Cases commenced per judgeship*—Continued

CRIMINAL CASES

Fiscal year	Eastern district of Pennsylvania		National average: Cases commenced per judgeship [1]	Fiscal year	Eastern district of Pennsylvania		National average: Cases commenced per judgeship [1]
	Cases commenced	Cases commenced per judgeship			Cases commenced	Cases commenced per judgeship	
1941	476	95	165	1948	428	80	167
1942	649	130	174	1949	506	95	177
1943	1,549	310	190	1950	490	67	169
1944	1,040	208	211	1951	437	60	180
1945	896	179	209	1952	552	75	177
1946	505	101	171	1953	470	64	171
1947	486	92	173	1954	467	56	172

[1] This column includes all districts having purely Federal jurisdiction: 86 districts for 1949 and thereafter; 84 districts before 1949.

Because caseload figures are given to the nearest whole number, it is not always possible to derive exact totals by adding component parts.

TABLE 3.—*Time intervals in civil cases terminated in which a trial was held for each fiscal year beginning with 1945*

CURRENCY OF DOCKETS

Fiscal year	Total cases terminated after trial		Median time intervals (in months) [1]			
			Filing to disposition		Issue to trial	
	Pennsylvania (eastern)	National [2]	Pennsylvania (eastern)	National [2]	Pennsylvania (eastern)	National [2]
1945	92	2,883	11.6	9.0	6.9	5.3
1936	93	3,421	12.1	8.9	7.5	5.0
1947	164	3,962	13.2	9.0	8.7	5.1
1948	153	4,548	13.7	9.9	10.3	5.8
1949	152	4,847	15.3	10.4	12.6	5.9
1950	143	5,020	17.8	11.2	12.8	6.7
1951	154	5,085	19.0	12.2	14.9	7.3
1952	173	4,767	21.1	12.1	15.9	7.0
1953	130	4,941	25.8	12.4	19.7	7.4
1954	107	4,825	24.7	13.5	21.1	8.1

[1] The median time interval from filing to disposition is computed by arranging all cases terminated during the year, in which a trial was held, in order according to the time from filing to disposition, from the lowest to the highest. The median time is then the time required for the middle case of the series or if there is an even number of cases, it is the average time for the 2 middle cases. The same procedure is followed in determining the median time from issue to trial. The median instead of the average is used because it prevents distortion of the result by a few nontypical long or short cases. No median has been computed where there were less than 25 cases.

The period from filing to disposition is the elapsed time from commencement to termination of the case. The period from issue to trial is the time from filing of the answer to the date trial is begun.

Land condemnation, habeas corpus, and forfeiture cases are not included because they are not representative of the time required for the general run of civil cases.

[2] These columns show the number of cases and the median time intervals for all districts having purely Federal jurisdiction: 86 districts for 1949 and thereafter; 84 districts before 1949.

TABLE 4.—*Cases commenced per judgeship in the eastern district of Pennsylvania and in 86 districts in the fiscal year 1954 by nature of suit*

	Cases commenced per judgeship		National average, cases terminated 1954: Percentage reaching trial [1]
	Pennsylvania (eastern)	86 districts	
Civil cases:			*Percent*
Total cases	258	210	11
United States cases	63	84	9
Private cases	195	127	13
United States plaintiff	51	65	6
Land condemnation	1	3	
Fair Labor Standards Act	2	2	11
Other enforcement suits	2	3	13
Food and Drug Act	6	5	1
Liquor laws	2	3	28
Other forfeitures and penalties	1	4	8
Negotiable instruments	17	25	1
Other contracts	18	13	4
Other United States plaintiff	3	6	7
United States defendant	12	19	16
Enjoin Federal agencies	2	2	18
Habeas corpus	1	4	12
Tort Claims Act	2	5	17
Tax suits	3	4	19
Other United States defendant	3	4	16
Federal question	68	33	11
Copyright		1	6
Employers' Liability Act	13	6	22
Fair Labor Standards Act	1	1	12
Habeas corpus	2	3	4
Jones Act	36	10	5
Miller Act	2	2	12
Patent	2	3	17
Other Federal question	12	9	10
Diversity of citizenship	93	81	15
Insurance	4	14	14
Other contracts	16	15	16
Real property	1	3	17
Personal injury (motor vehicle)	44	30	14
Personal injury (other negligence)	22	14	16
Other diversity	6	5	14
Admiralty	33	13	8
Criminal cases	56	172	9

[1] This column shows, by nature of suit, the percentage of all cases which were terminated after reaching the trial stage in the 86 United States district courts having purely Federal jurisdiction. Because these figures have been relatively stable over a period of years, they are valuable in assessing the relative burden on each judge of the caseloads given in the other 2 columns in terms of the probability that a given number of cases in each category will actually reach trial.

90005—57 S. Rept., 84–2, vol. 5——20k

APPENDIX 19

DISTRICT OF PUERTO RICO

TABLE 1.—*Cases commenced and terminated, by fiscal year, and pending at the end of each year, beginning with 1941*

TOTAL CIVIL CASES

Fiscal year	Commenced	Terminated	Pending June 30	Fiscal year	Commenced	Terminated	Pending June 30
1941	1,604	1,557	230	1949	246	220	172
1942	753	841	142	1950	549	493	228
1943	875	886	131	1951	327	404	151
1944	426	441	116	1952	646	344	453
1945	363	313	166	1953	1,592	1,707	338
1946	287	304	149	1954	427	551	214
1947	219	230	138	3 quarters of 1955	219	224	209
1948	297	289	146				

UNITED STATES CIVIL CASES (UNITED STATES A PARTY)

[OPA cases are in parentheses [1]]

Fiscal year	Commenced	Terminated	Pending June 30	Fiscal year	Commenced	Terminated	Pending June 30
1941	1,479	1,412	153	1949	167 (1)	164	51
1942	666	741	78	1950	428	388	91
1943	727 (3)	742	63	1951	266 (3)	306	52
1944	355 (3)	375	43	1952	147 (8)	151	48
1945	318 (54)	274	87	1953	190 (9)	180	58
1946	231 (53)	256	62	1954	137	133	62
1947	157 (1)	165	54	3 quarters of 1955	135	108	89
1948	228 (1)	234	48				

PRIVATE CIVIL CASES

Fiscal year	Commenced	Terminated	Pending June 30	Fiscal year	Commenced	Terminated	Pending June 30
1941	125	145	77	1949	79	56	121
1942	87	100	64	1950	121	105	137
1943	148	144	68	1951	61	99	99
1944	71	66	73	1952	499	193	405
1945	45	39	79	1953	1,402	1,527	280
1946	56	48	87	1954	290	418	152
1947	62	65	84	3 quarters of 1955	84	116	120
1948	69	55	98				

CRIMINAL CASES

[Cases transferred are not included in "Commenced" and "Terminated" columns]

Fiscal year	Commenced	Terminated	Pending June 30	Fiscal year	Commenced	Terminated	Pending June 30
1941	149	143	6	1949	176	185	14
1942	174	157	23	1950	219	190	42
1943	190	190	23	1951	135	156	19
1944	251	249	25	1952	161	157	22
1945	221	216	30	1953	113	101	35
1946	241	224	47	1954	82	86	32
1947	202	200	46	3 quarters of 1955	80	71	41
1948	213	227	26				

[1] OPA cases, including rent control, are separately listed because from 1945 to 1947 they constituted a large proportion of all civil cases commenced, although they required on the average a relatively small proportion of court time per case for disposition during those years. They are included in the figure which they follow.

TABLE 2.—*Cases commenced per judgeship*

TOTAL CIVIL CASES

Fiscal year	Puerto Rico		National average: Cases commenced per judgeship [1]	Fiscal year	Puerto Rico		National average: Cases commenced per judgeship [1]
	Number of judgeships	Cases commenced per judgeship			Number of judgeships	Cases commenced per judgeship	
1941	1	1,604	164	1948	1	297	205
1942	1	753	168	1949	1	246	238
1943	1	875	158	1950	1	549	222
1944	1	426	169	1951	1	327	204
1945	1	363	295	1952	1	646	236
1946	1	287	321	1953	1	1,592	261
1947	1	219	271	1954	1	427	210

UNITED STATES CIVIL CASES (UNITED STATES A PARTY)

Fiscal year	Puerto Rico, cases commenced per judgeship	National average, cases commenced per judgeship [1]	Fiscal year	Puerto Rico, cases commenced per judgeship	National average, cases commenced per judgeship [1]
1941	1,479	83	1948	228	87
1942	666	91	1949	167	118
1943	727	100	1950	428	109
1944	355	113	1951	266	93
1945	318	238	1952	147	110
1946	231	251	1953	190	115
1947	157	102	1954	137	84

PRIVATE CIVIL CASES

Fiscal year	Puerto Rico, cases commenced per judgeship	National average, cases commenced per judgeship [1]	Fiscal year	Puerto Rico, cases commenced per judgeship	National average, cases commenced per judgeship [1]
1941	125	81	1948	69	117
1942	87	77	1949	79	121
1943	148	58	1950	121	113
1944	71	56	1951	61	111
1945	45	37	1952	499	126
1946	56	70	1953	1,402	146
1947	62	109	1954	290	127

CRIMINAL CASES

Fiscal year	Puerto Rico, cases commenced per judgeship	National average, cases commenced per judgeship [1]	Fiscal year	Puerto Rico, cases commenced per judgeship	National average, cases commenced per judgeship [1]
1941	149	165	1948	213	167
1942	174	174	1949	176	177
1943	190	190	1950	219	169
1944	251	211	1951	135	180
1945	221	209	1952	161	177
1946	241	171	1953	113	171
1947	202	173	1954	82	172

[1] This column includes 86 districts for 1949 and thereafter; 84 districts before 1949.

Because caseload figures are given to the nearest whole number, it is not always possible to derive exact totals by adding component parts.

TABLE 3.—*Time intervals in civil cases terminated in which a trial was held, for each fiscal year beginning with 1945*

CURRENCY OF DOCKETS

Fiscal year	Total cases terminated after trial		Percentage of terminated cases requiring less than 6 months for the interval from filing to disposition		Percentage of terminated cases requiring less than 3 months for the interval from issue to trial	
	Puerto Rico	National	Puerto Rico	National [1]	Puerto Rico	National [1]
1945	----------	2,883	----------	29.6	----------	32.4
1946	----------	3,421	----------	29.3	----------	33.4
1947	----------	3,903	----------	31.9	----------	32.1
1948	----------	4,548	----------	26.7	----------	27.4
1949	15	4,847	13.3	28.5	33.3	28.2
1950	19	5,020	15.8	22.3	31.6	24.5
1951	9	5,085	11.1	20.8	44.5	21.9
1952	6	4,767	50.0	21.1	16.7	22.6
1953	22	4,941	18.3	19.2	22.7	21.2
1954	12	4,826	8.3	17.1	25.0	19.1

[1] This column includes all districts having purely Federal jurisdiction: 86 districts for 1949 and thereafter; 84 districts before 1949.

The period from filing to disposition is the elapsed time from commencement to termination of the case. The period from issue to trial is the time from filing of the answer to the date trial is begun.

Land condemnation, habeas corpus, and forfeiture cases are not included because they are not representative of the time required for the general run of civil cases.

TABLE 4.—*Cases commenced per judgeship in the District of Puerto Rico and in 86 districts in the fiscal year 1954 by nature of suit*

	Cases commenced per judgeship		National average: Cases terminated 1954: Percentage reaching trial [1]
	Puerto Rico	86 districts	
			Percent
Civil cases:			
Total cases	427	210	11
United States cases	137	84	9
Private cases	290	127	13
United States plaintiff	122	65	6
Land condemnation	3	3	
Fair Labor Standards Act	6	2	11
Other enforcement suits	2	3	13
Food and Drug Act	5	5	1
Liquor laws		3	28
Other forfeitures and penalties	1	4	8
Negotiable instruments	1	25	1
Other contracts	4	13	4
Other United States plaintiff	100	6	7
United States defendant	15	19	16
Enjoin Federal agencies	4	2	18
Habeas corpus	2	4	12
Tort Claims Act	8	5	17
Tax suits		4	19
Other United States defendant	1	4	16
Federal question	240	33	11
Copyright		1	6
Employers' Liability Act		6	22
Fair Labor Standards Act	2	1	12
Habeas corpus	1	3	4
Jones Act		10	5
Miller Act	1	2	12
Patent	1	3	17
Other Federal question	[2] 235	9	10
Diversity of citizenship	36	81	15
Insurance	3	14	14
Other contracts	6	15	16
Real property	15	3	17
Personal injury (motor vehicle)	6	30	14
Personal injury (other negligence)	1	14	16
Other diversity	7	5	14
Admiralty	12	13	8
Criminal cases	82	172	9

[1] This column shows, by nature of suit, the percentage of all cases which were terminated after reaching the trial stage in the 86 United States district courts having purely Federal jurisdiction. Because these figures have been relatively stable over a period of years, they are valuable in assessing the relative burden on each judge of the caseloads given in the other 2 columns in terms of the probability that a given number of cases in each category will actually reach trial.

[2] These are promissory note cases.

APPENDIX 20

THE EASTERN DISTRICT OF SOUTH CAROLINA

This district has 1 full-time judgeship and an additional 1 in the form of a roving judgeship for the entire State. Because the caseload has been heavier in the eastern district than in the western district for a number of years, the roving judge has spent his entire time in the former district. The chief judge is the Honorable George B. Timmerman, age 74, who is also the roving judge, and resides at Columbia. He has been a judge since 1942. The other judge is the Honorable Ashton H. Williams, age 64, who resides at Charleston and who has been a judge since 1952.

The judge residing at Charleston also takes care of the judicial duties in the Florence and Orangeburg divisions, while the Columbia judge handles the Aiken division work. For a number of years this respective assignment of divisions to the 2 judges has been fairly well observed, and in the statistical tables of the Annual Reports of the Administrative Office the same separation has been followed, so that information normally published for an entire district is in the case of the eastern district of South Carolina shown separately for the respective divisional areas of the 2 judges. For a number of years the district also has received assistance from the judge of the western district of South Carolina where the caseload has not been too heavy. The roving judge, however, has held court regularly in the western district.

Table 1 showing the number of civil cases filed annually since 1941 and table 3 showing the caseload per judgeship of cases commenced indicates that from the beginning of 1941 through the fiscal year 1951 the civil load in the district has been light. During some of these years the caseload per judgeship has been less than one-half of that for all judgeships in the 86 districts. Beginning with 1952, however, the caseload per judgeship approached the national average; in 1953 and 1954 it exceeded it, and in 1955 was almost 70 percent greater. This increase in the caseload, moreover, was almost entirely confined to private civil cases, thereby further increasing the actual burden being placed on the judges by the increases. In 1955, 709 civil cases were commenced, 403 in the Charleston-Florence-Orangeburg divisions and 306 in the Columbia-Aiken divisions. The number of private civil cases were 224 and 208 respectively, a considerably larger figure than the average of 126 for all judgeships in the 86 districts.

This tremendous increase in filings has of course skyrocketed the pending caseload. On June 30, 1951, there were only 139 civil cases pending (51 United States and 88 private cases), 50 of which were in the Charleston, etc., divisions, and 89 in the Columbia-Aiken divisions. Four years later the pending caseload had risen to 610 cases (194 United States and 416 private cases), of which 295 (98 United States and 197 private) were in the Charleston, etc., divisions, and 315 (96 United States and 219 private) in the Columbia-Aiken divisions.

One may well inquire for the reason for the immense increase in cases commenced. And, except for an inconsequential increase in Government negotiable instrument suits, the answer lies in a phenomenal rise in diversity of citizenship cases. In the fiscal year 1948 there were 74 diversity of citizenship cases commenced in the district (42 in Charleston, etc., and 32 in Columbia-Aiken). In 1955 there were 393 diversity of citizenship cases filed (201 in Charleston, etc., and 192 in Columbia-Aiken). This is an increase of over 430 percent in 7 years in this 1 jurisdictional category.

The diversity of citizenship increase is primarily the result of personal injury suits arising out of motor-vehicle accidents. In 1948 there were 30 of these motor-vehicle tort suits commenced (20 in Charleston, etc., and 10 in Columbia-Aiken). In 1955 the number had arisen to 208 (120 at Charleston, etc., and 88 at Columbia-Aiken), an increase of almost 600 percent in 7 years. The following table illustrates this rise in diversity of citizenship and motor vehicle tort cases:

Cases commenced

Fiscal year	Diversity of citizenship			Motor-Vehicle tort		
	Total	Charleston	Columbia	Total	Charleston	Columbia
1948	74	42	32	30	20	10
1949	135	66	69	55	35	20
1950	152	78	74	54	37	17
1951	144	76	68	80	39	41
1952	189	103	86	114	67	47
1953	320	157	163	151	78	73
1954	330	150	180	164	73	91
1955	393	201	192	208	120	88

With such a burden of private cases as are flooding the dockets of this district it is no wonder that the pending caseload is ascending rapidly. The district at the present time has a private caseload per judgeship that is equaled or exceeded by only eight other districts, in many of which the seriousness of the docket congestion is recognized and additional judgeships are being recommended.

For the past few years the number of civil trials commenced per judgeship has been slightly higher than the national average. For criminal trials commenced per judgeship the district has been on a par with the national average. Because the docket congestion is of such recent origin, long delays in reaching trial have not yet occurred. In 1955 the median time interval from filing to disposition in cases terminated in which a trial was begun was 12.2 months. This median compares favorably with the median for the 86 districts of 14.6 months. The median time interval from issue to trial was 8.7 months, slightly below the national median of 9.1 months.

Eastern District of South Carolina

Table 1.—*Civil cases commenced and terminated, by fiscal year, and pending at the end of each year beginning with 1941*

TOTAL CIVIL CASES

Fiscal year	Commenced	Terminated	Pending June 30	Fiscal year	Commenced	Terminated	Pending June 30
1941	243	234	198	1949	341	268	167
1942	248	225	221	1950	282	296	153
1943	215	272	164	1951	279	293	139
1944	171	213	122	1952	435	375	199
1945	166	221	67	1953	552	410	341
1946	195	169	93	1954	587	440	488
1947	250	221	131	1955	709	587	610
1948	178	215	94				

PRIVATE CIVIL CASES

Fiscal year	Commenced	Terminated	Pending June 30	Fiscal year	Commenced	Terminated	Pending June 30
1941	114	117	117	1949	151	127	67
1942	82	105	94	1950	169	143	93
1943	45	111	28	1951	156	161	88
1944	56	53	31	1952	201	190	99
1945	38	49	20	1953	339	209	229
1946	72	55	37	1954	351	263	317
1947	69	49	57	1955	432	333	416
1948	89	103	43				

TABLE 2.—*United States civil cases and criminal cases commenced and terminated, by fiscal year, and pending at the end of each year beginning with 1941*

UNITED STATES CIVIL CASES (UNITED STATES A PARTY)

[Price and rent control cases are in parentheses [1]]

Fiscal year	Commenced	Terminated	Pending June 30	Fiscal year	Commenced	Terminated	Pending June 30
1941	129	117	81	1949	190 (10)	141	100
1942	166	120	127	1950	113 (5)	153	60
1943	170 (2)	161	136	1951	123	132	51
1944	115 (8)	160	91	1952	234 (22)	185	100
1945	128 (36)	172	47	1953	213 (5)	201	112
1946	123 (56)	114	56	1954	236	177	171
1947	190 (68)	172	74	1955	277	254	194
1948	89 (8)	112	51				

CRIMINAL CASES

[Cases transferred are not included in "Commenced" and "Terminated" columns]

Fiscal year	Commenced	Terminated	Pending June 30	Fiscal year	Commenced	Terminated	Pending June 30
1941	571	634	210	1949	600	591	107
1942	625	564	[2] 270	1950	492	515	81
1943	349	548	71	1951	414	433	52
1944	444	459	56	1952	424	372	92
1945	607	570	93	1953	482	435	126
1946	505	496	102	1954	381	407	100
1947	447	438	98	1955	391	407	73
1948	411	406	102				

[1] Price and rent control cases are separately listed from 1948 to 1953. In many of these years they constituted a large proportion of all civil cases commenced, although they required on the average a relatively small proportion of court time per case for disposition. They are included in the figure which they follow.
[2] Adjusted.

TABLE 3.—*Cases commenced per judgeship*

Fiscal year	Number of judgeships [1]	Total civil cases		Private civil cases		Criminal cases (less immigration) [2]	
		South Carolina (eastern)	National average [3]	South Carolina (eastern)	National average [3]	South Carolina (eastern)	National average [3]
1941	2	122	164	57	82	286	153
1942	2	124	168	41	77	312	161
1943	2	108	158	23	58	175	174
1944	2	86	169	28	56	222	184
1945	2	83	295	19	57	304	176
1946	2	98	321	36	70	253	142
1947	2	130	271	35	109	224	134
1948	2	89	205	45	117	206	123
1949	2	171	238	76	121	300	123
1950	2	141	222	85	113	246	116
1951	2	140	204	78	111	205	106
1952	2	218	236	101	126	211	112
1953	2	276	261	170	146	240	114
1953	2	294	210	176	127	190	103
1955	2	355	212	216	126	194	104

[1] The roving judge in South Carolina spends most of his time in the eastern district.
[2] Immigration cases have been eliminated from this table because they occur in volume in only 5 districts on the Mexican border and because the average judicial time per case for their disposition is small.
[3] This column includes 86 districts for 1949 and thereafter; 84 districts before 1949.

TABLE 4.—*Time elapsing in civil cases tried* [1]

Fiscal year	Number of cases tried	Median interval in months from filing to disposition		Median interval in months from issue to trial	
		South Carolina (eastern)	National median	South Carolina (eastern)	National median
1945	20	----	9.0	----	5.3
1946	22	----	8.9	----	5.0
1947	10	----	9.0	----	5.1
1948	40	6.2	9.9	3.3	5.8
1949	64	7.7	10.4	4.0	5.9
1950	51	7.5	11.2	2.9	6.7
1951	44	7.2	12.2	3.3	7.3
1952	40	7.8	12.1	4.7	7.0
1953	48	7.3	12.4	4.3	7.4
1954	43	11.0	13.5	6.9	8.1
1955	55	12.2	14.6	8.7	9.1

[1] The median time interval in months is computed for the civil cases in which a trail was held, which were terminated during the year, excluding land condemnation, habeas corpus, and forfeiture proceedings. No median interval is shown for the years 1945 through 1952 where less than 25 cases were terminated after trial. For the year 1953 and subsequent years, where there were less than 25 cases terminated after trial, a median is listed with an asterisk (*) on the basis of the number of cases terminated after trial for the last 2 years, provided there were 25 such cases for the 2 years.

TABLE 5.—*Cases commenced per judgeship in this district and in 86 districts by nature of suit, fiscal year 1955*

Civil cases	South Carolina (eastern)	86 districts
Total cases	355	212
United States cases	139	86
Private cases	216	126
United States cases:		
United States plaintiff	129	68
Land condemnation	2	3
Fair Labor Standards Act	4	2
Other enforcement suits	----	3
Food and Drug Act	1	5
Liquor laws	9	2
Other forfeitures and penalties	1	4
Negotiable instruments	77	25
Other contracts	12	16
Other United States plaintiff	23	8
United States defendant	10	17
Agencies	2	3
Habeas corpus	----	4
Tort Claims Act	4	4
Tax suits	3	4
Other United States defendant	2	3
Private cases:		
Federal question	15	31
Copyright	----	1
Employers' Liability Act	7	6
Fair Labor Standards Act	1	1
Habeas corpus	2	3
Jones Act	----	9
Miller Act	2	1
Patent	1	3
Other Federal question	3	7
Diversity of citizenship	197	84
Insurance	27	14
Other contracts	25	15
Real property	1	3
Personal injury (motor vehicle)	104	32
Personal injury (other)	22	15
Other diversity	18	5
Admiralty	5	11
Criminal cases (less immigration)	194	104

TABLE 6.—*Civil and criminal trials commenced, by fiscal year*

Fiscal year	Total trials commenced	Civil			Criminal		
		Total	Nonjury	Jury	Total	Nonjury	Jury
1951	71	50	23	27	21	----------	21
1952	90	65	23	42	25	4	21
1953	105	73	34	39	32	7	25
1954	87	63	21	42	24	3	21
1955	104	68	23	45	36	4	32

CIVIL AND CRIMINAL TRIALS COMMENCED PER JUDGESHIP

Fiscal year	Number of judgeships [1]	Total trials		Civil		Criminal	
		South Carolina (eastern)	National average [2]	South Carolina (eastern)	National average [2]	South Carolina (eastern)	National average [2]
1951	2	36	39	25	28	11	11
1952	2	45	40	33	27	13	13
1953	2	53	44	37	29	16	15
1954	2	44	40	32	25	12	15
1955	2	52	41	34	26	18	15

[1] The roving judge in South Carolina spends most of his time in the eastern district.
[2] This column includes 86 districts.

TABLE 7.—*Civil cases pending per judgeship on June 30, 1955*

Nature of suit	Cases pending per judgeship [1]	
	South Carolina (eastern)	National average
Total civil cases	306	258
United States civil cases	97	89
Private civil cases	208	169
United States plaintiff	79	58
Land condemnation	13	13
Antitrust		
Other enforcement suits	5	8
Forfeitures and penalties	7	4
Negotiable instruments	33	13
Other contracts	9	13
Other United States plaintiff	14	7
United States defendant	18	31
Tort Claims Act	9	7
Tax suits	4	8
Other United States defendant	5	16
Federal question	14	47
Antitrust	1	2
Copyright		2
FELA	7	8
Jones Act		18
Patent	1	5
Other Federal question	5	12
Diversity of citizenship	189	98
Insurance	25	10
Other contracts	27	20
Real property	1	2
Personal injury (motor vehicle)	81	34
Personal injury (other)	26	21
Other diversity	31	11
Admiralty	5	24

[1] The roving judge in South Carolina spends most of his time in the eastern district.

AGE OF CIVIL CASES PENDING ON JUNE 30, 1955.

Jurisdiction	Total pending	Age of civil cases pending—						
		Less than 6 months	6 months to 1 year	1 year to 2 years	2 years to 3 years	3 years to 4 years	4 years to 5 years	5 years and over
Total civil cases	610	320	114	103	50	10	3	10
United States civil	194	111	24	26	22	9	1	1
United States plaintiff	158	97	20	13	17	9	1	1
United States defendant	36	14	4	13	5			
Private civil	416	209	90	77	28	1	2	9
Federal question	28	15	6	5			2	
Diversity	378	193	77	70	28	1		9
Admiralty	10	1	7	2				

TABLE 1.—*Charleston, Florence, and Orangeburg divisions—Civil cases commenced and terminated, by fiscal year, and pending at the end of each year beginning with 1946*

TOTAL CIVIL CASES

Fiscal year	Commenced	Terminated	Pending June 30	Fiscal year	Commenced	Terminated	Pending June 30
1946	130	120	50	1951	185	189	50
1947	135	121	64	1952	245	208	87
1948	112	134	42	1953	286	219	154
1949	156	154	44	1954	294	211	237
1950	150	140	54	1955	403	345	295

PRIVATE CIVIL CASES

Fiscal year	Commenced	Terminated	Pending June 30	Fiscal year	Commenced	Terminated	Pending June 30
1946	40	39	20	1951	85	82	37
1947	26	25	21	1952	109	104	42
1948	48	55	14	1953	167	98	111
1949	76	66	24	1954	159	118	152
1950	92	82	34	1955	234	179	197

TABLE 1.—*Columbia and Aiken divisions—Civil cases commenced and terminated, by fiscal year, and pending at the end of each year beginning with 1946*

TOTAL CIVIL CASES

Fiscal year	Commenced	Terminated	Pending June 30	Fiscal year	Commenced	Terminated	Pending June 30
1946	65	49	43	1951	124	134	89
1947	124	100	67	1952	190	167	112
1948	66	81	52	1953	266	191	187
1949	185	114	123	1954	293	229	251
1950	132	156	99	1955	306	242	315

PRIVATE CIVIL CASES

Fiscal year	Commenced	Terminated	Pending June 30	Fiscal year	Commenced	Terminated	Pending June 30
1946	23	16	17	1951	71	79	51
1947	43	24	36	1952	92	86	57
1948	41	48	29	1953	172	111	118
1949	75	61	43	1954	192	145	165
1950	77	61	59	1955	208	154	219

TABLE 2.—*Charleston, Florence, and Orangeburg divisions—United States civil cases and criminal cases commenced and terminated, by fiscal year, and pending at the end of each year beginning with 1946*

UNITED STATES CIVIL CASES (UNITED STATES A PARTY)

Fiscal year	Commenced	Terminated	Pending June 30	Fiscal year	Commenced	Terminated	Pending June 30
1946	81	81	30	1951	70	77	13
1947	109	96	43	1952	136	104	45
1948	64	79	28	1953	119	121	43
1949	80	88	20	1954	135	93	85
1950	58	58	20	1955	179	166	98

CRIMINAL CASES

[Cases transferred are not included in "Commenced" and "Terminated" columns]

Fiscal year	Commenced	Terminated	Pending June 30	Fiscal year	Commenced	Terminated	Pending June 30
1946	311	295	51	1951	270	278	22
1947	262	258	46	1952	287	244	56
1948	247	231	58	1953	311	282	77
1949	362	356	55	1954	225	249	53
1950	277	293	40	1955	227	237	43

TABLE 2.—*Columbia and Aiken divisions—United States civil cases and criminal cases commenced and terminated, by fiscal year, and pending at the end of each year beginning with 1946*

UNITED STATES CIVIL CASES (UNITED STATES A PARTY)

Fiscal year	Commenced	Terminated	Pending June 30	Fiscal year	Commenced	Terminated	Pending June 30
1946	42	33	26	1951	53	55	38
1947	81	76	31	1952	98	81	55
1948	26	33	23	1953	94	80	69
1949	110	53	80	1954	101	84	86
1950	55	95	40	1955	93	83	96

CRIMINAL CASES

[Cases transferred are not included in "Commenced" and "Terminated" columns]

Fiscal year	Commenced	Terminated	Pending June 30	Fiscal year	Commenced	Terminated	Pending June 30
1946	194	201	51	1951	144	155	29
1947	185	180	52	1952	137	128	36
1948	164	175	44	1953	171	153	49
1949	238	235	52	1954	156	158	47
1950	215	222	41	1955	164	170	30

Western District of South Carolina

Table 1.—*Civil cases commenced and terminated, by fiscal year, and pending at the end of each year beginning with 1941*

TOTAL CIVIL CASES

Fiscal year	Commenced	Terminated	Pending June 30	Fiscal year	Commenced	Terminated	Pending June 30
1941	131	157	38	1949	105	112	50
1942	86	82	42	1950	84	88	46
1943	80	75	47	1951	109	88	67
1944	61	64	44	1952	118	93	92
1945	109	105	48	1953	154	146	100
1946	102	72	78	1954	194	176	118
1947	106	135	49	1955	162	136	144
1948	98	90	57				

PRIVATE CIVIL CASES

Fiscal year	Commenced	Terminated	Pending June 30	Fiscal year	Commenced	Terminated	Pending June 30
1941	47	69	26	1949	44	44	26
1942	38	41	23	1950	37	30	24
1943	27	34	16	1951	61	48	37
1944	18	11	23	1952	75	52	60
1945	20	25	18	1953	68	84	44
1946	28	19	27	1954	113	88	69
1947	29	38	18	1955	94	95	68
1948	43	35	26				

Table 2.—*United States civil cases and criminal cases, commenced and terminated, by fiscal year, and pending at the end of each year, beginning with 1941*

UNITED STATES CIVIL CASES (UNITED STATES A PARTY)

[Price and rent control cases are in parentheses.[1]]

Fiscal year	Commenced	Terminated	Pending June 30	Fiscal year	Commenced	Terminated	Pending June 30
1941	84	88	12	1949	61 (5)	66	24
1942	48	41	19	1950	47 (1)	49	22
1943	53 (13)	41	31	1951	48	40	30
1944	43 (4)	53	21	1952	43 (4)	41	32
1945	89 (28)	80	30	1953	86 (8)	62	56
1946	74 (43)	53	51	1954	81	88	49
1947	77 (17)	97	31	1955	68	41	76
1948	55	55	31				

[1] Price- and rent-control cases are separately listed from 1943 to 1953. In many of these years they constituted a large proportion of all civil cases commenced, although they required on the average a relatively small proportion of court time per case for disposition. They are included in the figure which they follow.

CRIMINAL CASES

[Cases transferred are not included in "Commenced" and "Terminated" columns]

Fiscal year	Commenced	Terminated	Pending June 30	Fiscal year	Commenced	Terminated	Pending June 30
1941	286	294	20	1949	243	232	34
1942	353	330	43	1950	164	187	14
1943	211	230	24	1951	179	175	23
1944	226	207	43	1952	155	151	27
1945	160	177	26	1953	156	165	19
1946	180	183	23	1954	148	141	25
1947	186	190	19	1955	163	170	21
1948	206	202	19				

TABLE 3.—*Cases commenced per judgeship*

Fiscal year	Number of judgeships [1]	Total civil cases		Private civil cases		Criminal cases (less immigration) [2]	
		South Carolina (western)	National average [3]	South Carolina (western)	National average [3]	South Carolina (western)	National average [3]
1941	1	131	164	47	82	286	153
1942	1	86	166	38	77	353	161
1943	1	80	158	27	58	211	174
1944	1	61	169	18	56	226	184
1945	1	109	295	30	57	160	176
1946	1	102	321	28	70	180	142
1947	1	106	271	29	109	186	134
1948	1	98	205	43	117	206	123
1949	1	105	238	44	121	243	123
1950	1	84	222	37	113	164	116
1951	1	109	204	61	111	179	106
1952	1	118	236	75	126	155	112
1953	1	154	261	68	146	156	114
1954	1	194	210	113	127	148	103
1955	1	162	212	94	126	163	104

[1] The roving judge in South Carolina spends most of his time in the eastern district.
[2] Immigration cases have been eliminated from this table because they occur in volume in only 5 districts on the Mexican border and because the average judicial time per case for their disposition is small.
[3] This column includes 86 districts for 1949 and thereafter; 84 districts before 1949.

TABLE 4.—*Time elapsing in civil cases tried* [1]

Fiscal year	Number of cases tried	Median interval in months from filing to disposition		Median interval in months from issue to trial	
		South Carolina (western)	National median	South Carolina (western)	National median
1945	8	----------	9.0	----------	5.3
1946	9	----------	8.9	----------	5.0
1947	25	6.6	9.0	4.8	5.1
1948	12	----------	9.9	----------	5.8
1949	11	----------	10.4	----------	5.9
1950	10	----------	11.2	----------	6.7
1951	12	----------	12.2	----------	7.3
1952	19	----------	12.1	----------	7.0
1953	20	----------	12.4	----------	7.4
1954	30	9.3	13.5	6.3	8.1
1955	22	*9.3	14.6	*5.8	9.1

[1] The median time interval in months is computed for the civil cases in which a trial was held, which were terminated during the year, excluding land condemnation, habeas corpus, and forfeiture proceedings. No median interval is shown for the years 1945 through 1952 where less than 25 cases were terminated after trial. For the year 1953 and subsequent years, where there were less than 25 cases terminated after trial, a median is listed with an asterisk (*) on the basis of the number of cases terminated after trial for the last 2 years, provided there were 25 such cases for the 2 years.

TABLE 5.—*Cases commenced per judgeship in this district and in 86 districts by nature of suit, fiscal year 1955*

Civil cases	South Carolina (western)	86 districts
Total cases	162	212
United States cases	68	86
Private cases	94	126
United States cases:		
United States plaintiff	51	68
Land condemnation	----------	3
Fair Labor Standards Act	5	2
Other enforcement suits	----------	3
Food and Drug Act	1	5
Liquor laws	8	2
Other forfeitures and penalties	1	4
Negotiable instruments	24	25
Other contracts	3	16
Other United States plaintiff	9	8
United States defendant	17	17
Enjoin Federal agencies	----------	3
Habeas corpus	4	4
Tort Claims Act	1	4
Tax suits	11	4
Other United States defendant	1	3
Private cases:		
Federal question	10	31
Copyright	1	1
Employers' Liability Act	1	6
Fair Labor Standards Act	2	1
Habeas corpus	1	3
Jones Act	----------	9
Miller Act	----------	1
Patent	1	3
Other federal question	4	7
Diversity of citizenship	84	84
Insurance	5	14
Other contracts	17	15
Real property	3	3
Personal injury (motor vehicle)	40	32
Personal injury (other)	7	15
Other diversity	12	5
Admiralty	----------	11
Criminal cases (less immigration)	163	104

TABLE 6.—*Civil and criminal trials commenced, by fiscal year*

Fiscal year	Total trials commenced	Civil			Criminal		
		Total	Nonjury	Jury	Total	Nonjury	Jury
1951	41	23	10	13	18	2	16
1952	43	28	9	19	15	----------	15
1953	45	28	16	12	17	2	15
1954	49	35	14	21	14	2	12
1955	29	18	4	14	11	----------	11

TABLE 6.—*Civil and criminal trials commenced, by fiscal year*—Continued

CIVIL AND CRIMINAL TRIALS COMMENCED PER JUDGESHIP

Fiscal year	Number of judgeships [1]	Total trials		Civil		Criminal	
		South Carolina (western)	National average [2]	South Carolina (western)	National average [2]	South Carolina (western)	National average [2]
1951	1	41	39	23	28	18	11
1952	1	43	40	28	27	15	13
1953	1	45	44	28	29	17	15
1954	1	49	40	35	25	14	15
1955	1	29	41	18	26	11	15

[1] The roving judge in South Carolina spends most of his time in the eastern district.
[2] This column indicates 86 districts.

TABLE 7.—*Civil cases pending per judgeship on June 30, 1955*

Nature of suit	Cases pending per judgeship [1]	
	South Carolina (western)	National average
Total civil cases	144	258
United States civil cases	76	89
Private civil cases	68	169
United States plaintiff	56	58
Land condemnation	14	13
Antitrust	----	----
Other enforcement suits	5	8
Forfeitures and penalties	2	4
Negotiable instruments	21	13
Other contracts	5	13
Other United States plaintiff	9	7
United States defendant	20	31
Tort Claims Act	2	7
Tax suits	15	8
Other United States defendant	3	16
Federal question	7	47
Antitrust	1	2
Copyright	1	2
FELA	----	8
Jones Act	----	18
Patent	1	5
Other Federal question	4	12
Diversity of citizenship	61	98
Insurance	6	10
Other contracts	16	20
Real property	2	2
Personal injury (motor vehicle)	22	34
Personal injury (other)	7	21
Other diversity	8	11
Admiralty	----	24

[1] The roving judge in South Carolina spends most of his time in the eastern district.

TABLE 7.—*Civil cases pending per judgeship on June 30, 1955*—Continued

AGE OF CIVIL CASES PENDING ON JUNE 30, 1955

Jurisdiction	Total pending	Age of civil cases pending—						
		Less than 6 months	6 months to 1 year	1 year to 2 years	2 years to 3 years	3 years to 4 years	4 years to 5 years	5 years and over
Total civil cases	144	77	23	21	8	5	5	5
United States civil	76	36	12	8	7	4	5	4
United States plaintiff	56	31	4	4	5	3	5	4
United States defendant	20	5	8	4	2	1		
Private civil	68	41	11	13	1	1		1
Federal question	7	6	1					
Diversity	61	35	10	13	1	1		1
Admiralty								

APPENDIX 21

THE JUDICIAL BUSINESS OF THE UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF TEXAS

In the Judicial Code of 1911 the northern district of Texas was provided with one judgeship, a second was authorized as temporary by the act of February 26, 1919 (40 Stat. 1183), and a third as temporary by the act of September 14, 1922 (42 Stat. 837). Both of these temporary positions were made permanent by the act of August 19, 1935 (49 Stat. 659). Court for the district is held at Dallas, Fort Worth, Abilene, San Angelo, Amarillo, Wichita Falls, and Lubbock. Judge William H. Atwell retired at the end of last year after 32 years' service and there is now one vacancy.

Since 1945 the civil caseload in this district has been extremely heavy, with a caseload ranging from a high of 478 civil cases per judgeship in that year to a low of 287 in 1950. In recent years the caseload has been increasing steadily to 436 in 1954 compared to a national average in that year of 210 civil cases per judgeship. In 1945 almost two-thirds of the civil cases filed were price and rent control suits which on the average did not require much court time for disposition, but in 1954 about 80 percent of the caseload consisted of time-consuming private civil litigation. This is a significant change in the character of the litigation and is an increased burden to the court.

The caseload of total civil and private civil cases commenced per judgeship in the northern district of Texas since 1945 compared with the national average is as follows:

Caseload of civil cases commenced per judgeship

Fiscal year	Total civil		Private civil	
	Texas, northern	National average	Texas, northern	National average
1945	478	295	105	57
1946	390	321	132	70
1947	347	271	160	109
1948	313	205	172	117
1949	418	238	193	121
1950	287	222	213	113
1951	364	204	282	111
1952	394	236	292	120
1953	431	261	326	146
1954	436	210	348	127

Despite the volume of work, the judges have been able to maintain the dockets in a current condition. On June 30, 1954, there were 507 civil cases pending and the median interval from filing to disposition for civil cases tried in 1954 was only 4.8 months compared to the national median of 13.5 months and the interval from issue to trial was 3.3 months compared to the national median of 8.1 months. This is a remarkable achievement, but nonetheless the effects of a heavy caseload are beginning to be felt and the pending cases have been increasing for the last 3 years—507 civil cases pending on June 30, 1954, compared with only 226 on June 30, 1941.

Almost one-half of the civil actions commenced in this district in 1954 were workmen's compensation cases which are filed in large numbers in all the districts in Texas. A large percentage of these usually are tried. Other private civil cases have also increased so that the caseload of 348 per judge of these actions in 1954 was over 3 times what it was in 1945 and 2¾ times the average of 127 private civil cases commenced per judgeship nationally in 1954.

In addition to the large influx of civil cases the district has a large volume of criminal work. During the fiscal year 1954 there were 164 criminal cases filed per judgeship in the northern district of Texas compared to the national average of 103 criminal cases per judge if the prosecutions for illegal immigration, which occur in large volume only in the districts on the Mexican border, are eliminated. The criminal dockets are current.

The trial work and more particularly the jury-trial work in the district is burdensome. Last year there were 125 civil jury trials commenced in the northern district of Texas which is more than the number in any other district among the 86 United States district courts having solely Federal jurisdiction. The number of trials begun each year for the last 5 fiscal years is as follows:

Civil and criminal trials begun in the northern district of Texas

Fiscal year	Total trials	Civil trials			Criminal trials		
		Total	Nonjury	Jury	Total	Nonjury	Jury
1950	249	220	141	79	29	8	21
1951	212	179	72	107	33	8	25
1952	229	191	82	109	38	5	33
1953	252	208	87	121	44	8	36
1954	261	188	63	125	73	18	55

In the first half of the fiscal year 1955 there was an increase in both the number of total civil cases filed and private civil cases filed as compared to the same period last year. The number of criminal cases declined. The number of total civil, private civil, and criminal cases commenced and terminated during the first half of the fiscal years 1954 and 1955 and the number pending at the end of each period is as follows:

Fiscal year	Commenced	Terminated	Pending at the end of the first half
Total civil cases:			
First half of 1954	663	625	542
First half of 1955	723	662	503
Private civil cases:			
First half of 1954	543	459	418
First half of 1955	565	491	456
Criminal cases:			
First half of 1954	223	204	139
First half of 1955	188	197	83

The population of the district increased about 25 percent between 1940 and 1950 and it is larger than that of the southern district which has 4 judges. The population increase has been accompanied by a large industrial and commercial expansion.

Because of the large volume of cases to be handled and the mounting volume of trial work the Judicial Conference of the United States in March 1955 recommended the creation of an additional judgeship for the northern district of Texas.

90005—57 S. Rept., 82–2, vol. 5——20m

Complete statistical tables showing the civil and criminal business of the district for the last 14 fiscal years are attached.

Respectfully submitted.

WILL SHAFROTH,
Chief of the Division of Procedural Studies and Statistics.

APRIL 1, 1955.

NORTHERN DISTRICT OF TEXAS

TABLE 1.—*Cases commenced and terminated, by fiscal year, and pending at the end of each year, beginning with 1941*

TOTAL CIVIL CASES

Fiscal year	Commenced	Terminated	Pending June 30	Fiscal year	Commenced	Terminated	Pending June 30
1941	540	513	226	1949	1,253	1,261	441
1942	574	556	244	1950	860	972	329
1943	484	473	255	1951	1,003	970	452
1944	502	528	229	1952	1,181	1,201	432
1945	1,433	1,208	454	1953	1,292	1,220	504
1946	1,169	1,155	468	1954	1,309	1,306	507
1947	1,041	897	612	First half of 1955	723	662	568
1948	939	1,102	449				

UNITED STATES CIVIL CASES (UNITED STATES A PARTY)

[OPA cases are in parentheses [1]]

Fiscal year	Commenced	Terminated	Pending June 30	Fiscal year	Commenced	Terminated	Pending June 30
1941	167	146	64	1949	673 (397)	649	232
1942	163	150	77	1950	222 (13)	350	104
1943	228 (38)	173	132	1951	247 (2)	318	133
1944	296 (124)	304	124	1952	304 (13)	275	162
1945	1,119 (928)	937	306	1953	314 (6)	306	170
1946	774 (650)	810	270	1954	268	290	145
1947	560 (407)	421	409	First half of 1955	158	171	132
1948	423 (259)	624	208				

PRIVATE CIVIL CASES

Fiscal year	Commenced	Terminated	Pending June 30	Fiscal year	Commenced	Terminated	Pending June 30
1941	373	367	162	1949	580	612	209
1942	411	406	167	1950	638	622	225
1943	256	300	123	1951	846	752	319
1944	206	224	105	1952	877	926	270
1945	314	271	148	1953	978	914	334
1946	395	345	198	1954	1,044	1,016	362
1947	481	476	203	First half of 1955	565	491	436
1948	516	478	241				

CRIMINAL CASES

[Cases transferred are not included in "Commenced" and "Terminated" columns]

Fiscal year	Commenced	Terminated	Pending June 30	Fiscal year	Commenced	Terminated	Pending June 30
1941	428	420	112	1949	366	361	53
1942	366	335	143	1950	361	383	44
1943	329	369	103	1951	426	395	74
1944	585	564	124	1952	472	443	100
1945	607	576	155	1953	529	531	112
1946	293	374	74	1954	502	538	91
1947	356	382	56	First half of 1955	188	197	88
1948	319	365	33				

[1] OPA cases, including rent control, are separately listed because from 1945 to 1947 they constituted a large proportion of all civil cases commenced, although they required on the average a relatively small proportion of court time per case for disposition during those years. They are included in the figure which they follow.

TABLE 2.—*Cases commenced per judgeship*

TOTAL CIVIL CASES

Fiscal year	Texas (northern)		National average: Cases commenced per judgeship [1]	Fiscal year	Texas (northern)		National average: Cases commenced per judgeship [1]
	Number of judgeships	Cases commenced per judgeship			Number of judgeships	Cases commenced per judgeship	
1941	3	180	164	1948	3	313	205
1942	3	191	168	1949	3	418	238
1943	3	161	158	1950	3	287	222
1944	3	167	169	1951	3	364	204
1945	3	478	295	1952	3	394	236
1946	3	390	321	1953	3	431	261
1947	3	347	271	1954	3	436	210

UNITED STATES CIVIL CASES (UNITED STATES A PARTY)

Fiscal year	Texas (northern)	National average: Cases commenced per judgeship [1]	Fiscal year	Texas (northern)	National average: Cases commenced per judgeship [1]
	Cases commenced per judgeship			Cases commenced per judgeship	
1941	56	83	1948	141	87
1942	54	91	1949	224	118
1943	76	100	1950	74	109
1944	99	113	1951	82	93
1945	373	238	1952	101	110
1946	258	251	1953	105	115
1947	187	162	1954	88	84

PRIVATE CIVIL CASES

Fiscal year	Texas (northern)	National average: Cases commenced per judgeship [1]	Fiscal year	Texas (northern)	National average: Cases commenced per judgeship [1]
	Cases commenced per judgeship			Cases commenced per judgeship	
1941	124	82	1948	172	117
1942	137	77	1949	193	121
1943	85	58	1950	213	113
1944	69	56	1951	282	111
1945	105	57	1952	292	126
1946	132	70	1953	326	146
1947	160	109	1954	348	127

See footnotes at end of table, p. 198.

TABLE 2.—*Cases commenced per judgeship*—Continued

CRIMINAL CASES

Fiscal year	Texas (northern)	National average: Cases commenced per judgeship [1]	Fiscal year	Texas (northern)	National average: Cases commenced per judgeship [1]
	Cases commenced per judgeship			Cases commenced per judgeship	
1941	143	165	1948	106	167
1942	122	174	1949	122	177
1943	110	190	1950	120	169
1944	195	211	1951	142	180
1945	202	209	1952	157	177
1946	98	171	1953	176	171
1947	119	173	1954	167	172

[1] This column includes 86 districts for 1949 and thereafter, 84 districts before 1949.

Because caseload figures are given to the nearest whole number, it is not always possible to derive exact totals by adding component parts.

TABLE 3.—*Time intervals in civil cases terminated in which a trial was held, for each fiscal year beginning with 1945*

CURRENCY OF DOCKETS

Fiscal year	Total cases terminated after trial		Median time intervals (in months) [1]			
			Filing to disposition		Issue to trial	
	Texas (northern)	National [2]	Texas (northern)	National [2]	Texas (northern)	National [2]
1945	88	2,883	4.7	9.0	3.1	5.3
1946	128	3,421	4.1	8.9	2.2	5.0
1947	144	3,963	4.2	9.0	2.9	5.1
1948	207	4,548	5.2	9.9	3.7	5.8
1949	283	4,847	4.3	10.4	3.1	5.9
1950	244	5,020	4.8	11.2	3.1	6.7
1951	173	5,085	4.9	12.2	3.4	7.3
1952	169	4,767	4.6	12.1	3.4	7.0
1953	178	4,941	4.5	12.4	3.1	7.4
1954	179	4,825	4.8	13.5	3.3	8.1

[1] The median time interval from filing to disposition is computed by arranging all cases terminated during the year, in which a trial was held, in order according to the time from filing to disposition, from the lowest to the highest. The median time is then the time required for the middle case of the series or if there is an even number of cases, it is the average time for the two middle cases. The same procedure is followed in determining the median time from issue to trial. The median instead of the average is used because it prevents distortion of the result by a few nontypical long or short cases. No median has been computed where there were less than 25 cases.

The period from filing to disposition is the elapsed time from commencement to termination of the case. The period from issue to trial is the time from filing of the answer to the date trial is begun.

Land condemnation, habeas corpus, and forfeiture cases are not included because they are not representative of the time required for the general run of civil cases.

[2] These columns show the number of cases and the median time intervals for all districts having purely Federal jurisdiction: 86 districts for 1949 and thereafter; 84 districts before 1949.

TABLE 4.—*Cases commenced per judgeship in the northern district of Texas and in 86 districts in the fiscal year 1954 by nature of suit*

	Cases commenced per judgeship		National average: Cases terminated 1954: Percentage reaching trial [1]
	Texas (northern)	86 districts	
			Percent
Civil cases:			
Total cases	436	210	11
United States cases	88	84	9
Private cases	348	127	13
United States plaintiff	66	65	6
Land condemnation	4	3	
Fair Labor Standards Act	2	2	11
Other enforcement suits	3	3	13
Food and Drug Act	3	5	1
Liquor laws	3	3	28
Other forfeitures and penalties	12	4	8
Negotiable instruments	26	25	1
Other contracts	11	13	4
Other United States plaintiff	3	6	7
United States defendant	23	19	16
Enjoin Federal agencies	3	2	18
Habeas corpus	3	4	12
Tort Claims Act	3	5	17
Tax suits	10	4	19
Other United States defendant	3	4	16
Federal question	27	33	11
Copyright	1	1	6
Employers' Liability Act	7	6	22
Fair Labor Standards Act		1	12
Habeas corpus	1	3	4
Jones Act		10	5
Miller Act	4	2	12
Patent	2	3	17
Other Federal question	11	9	10
Diversity of citizenship	321	81	15
Insurance	209	14	14
Other contracts	36	15	16
Real property	14	3	17
Personal injury (motor vehicle)	38	30	14
Personal injury (other negligible)	12	14	16
Other diversity	12	5	14
Admiralty		13	8
Criminal cases	167	172	9

[1] This column shows, by nature of suit, the percentage of all cases which were terminated after reaching the trial stage in the 86 United States district courts having purely Federal jurisdiction. Because these figures have been relatively stable over a period of years, they are valuable in assessing the relative burden on each judge of the caseloads given in the other 2 columns in terms of the probability that a given number of cases in each category will actually reach trial.

APPENDIX 22

THE JUDICIAL BUSINESS OF THE UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF TEXAS

The western district of Texas comprises 6 statutory divisions with 6 places of holding court, at Austin, Del Rio, El Paso, Pecos, San Antonio, and Waco. In the Judicial Code of 1911 provision was made for 1 judgeship, and by the act of February 26, 1917 (39 Stat. 938) an additional judgeship was created and the district has had 2 judges since that time. Judge Ben H. Rice, Jr., the chief judge, resides at Waco and Judge Robert E. Thomason lives in El Paso. The distance between these 2 cities is almost 650 miles and for this reason Judge Rice generally handles the business of the court in the eastern half of the district at Austin, San Antonio, and Waco, while Judge Thomason takes care of the cases in the western part at Del Rio, El Paso, and Pecos. The rules of court provide for 2 terms at each of these 6 places. The heavy caseloads in this district combined with the distances to be traveled make the burden of the two judges very much above average.

The civil business of the court for many years has been characterized by a large number of suits by employees to set aside awards of the Industrial Accident Board of Texas, about half of which are removed to the district court by defendant insurance companies because of diversity of citizenship. The criminal caseload consists of a very large number of immigration cases and a more than average number of other types including many narcotics and fraud cases.

In the years since World War II there has been a rise in the number of cases commenced, both civil and criminal. In the last 2 fiscal years, however, there was a decline in the number of civil cases commenced from 777 in 1953 to 680 in 1955. This is principally the result of fewer workmen's compensation cases and other suits against insurance companies under the diversity jurisdiction which declined 71 cases this year from 328 to 257. However, there has been a very large increase in private civil cases since 1946 from 149 to 452. The criminal caseload fell considerably this year because of fewer cases of illegal immigration which declined by over 2,000 cases. These cases fluctuate in number depending to a great extent upon the activity of the Immigration and Naturalization Service. The number of total civil, private civil, and criminal cases commenced in the district in the last 10 years is shown in the following table:

Cases commenced

Fiscal year	Total civil	Private civil	Criminal		
			Total	Immigration [1]	Other
1946	561	149	2,285	1,663	622
1947	706	239	2,770	2,056	714
1948	574	320	3,199	2,575	624
1949	687	321	4,793	4,266	527
1950	553	327	5,051	4,590	461
1951	526	294	4,833	4,349	484
1952	663	386	5,105	4,334	771
1953	777	457	5,514	4,916	598
1954	732	495	6,108	5,636	472
1955	680	452	3,967	3,552	415

[1] This column is the number of defendants which is usually 1 per case.

In every year since the fiscal year 1947 the civil caseload in the western district of Texas has exceeded the national average of civil cases commenced per judgeship. In the fiscal year 1955 the total civil caseload of cases commenced per judgeship was 340 compared to the national average of 212 civil cases per judgeship, and the private civil caseload was 226 or almost twice the national average of 126 such cases per judgeship. This is a significant factor because private civil cases on the average require more time for disposition than do other types of cases.

More criminal cases have been commenced in this district in the past few years than in any other district court, but most of the cases are illegal immigration

cases which on the average require very little time to dispose of. Yet when these cases are filed in volume, as they are in this district, they are a considerable burden on the court. And even without the immigration cases the district has a caseload of criminal cases twice the average. In the fiscal year 1954 there were 208 criminal cases commenced per judgeship in this district exclusive of immigration cases, compared to a national average of 104 such cases per judgeship.

In general the court has been able to keep up with the heavy filings, but nevertheless the number of pending civil cases has been steadily increasing since 1948. On June 30 of that year there were 363 civil cases pending in the district and by June 30, 1955, this figure had increased to 682. The median time interval from filing to disposition of civil cases terminated after trial during the fiscal year 1955 was 11.8 months compared to the national median of 14.6 months, and the median interval from issue to trial was 4.5 months compared to the national median of 9.1 months.

In the last 11 years the number of civil cases commenced annually has been evenly divided between the 3 divisions in the eastern half of the district and the 3 in the western half. The Del Rio, El Paso, and Pecos divisions in the western part are the divisions which border on Mexico and it is here that 80 percent of the criminal cases are filed. Most of them are illegal immigration cases. In addition to the large caseload the judge who serves this part of the district travels farther because of longer distances between places of holding court. It is almost 400 airline miles from El Paso to Del Rio, the 2 places where most of the criminal cases are filed.

The number of trials in this district is unusually large. In 1954 there were 90 civil trials and 55 criminal trials, a total of 145. In 1955 the total was 130 trials consisting of 70 civil trials and 60 criminal trials.

Complete statistical tables showing the judicial business in this district during the last 15 fiscal years and tables showing the number of civil and criminal cases commenced by division, since 1945 are attached.

Respectfully submitted.

JOSEPH F. SPANIOL, JR.,
Attorney, Division of Procedural Studies and Statistics,
Administrative Office of the United States Courts.

SEPTEMBER 1, 1955.

Civil cases commenced in the western district of Texas by office

Fiscal year	Total	Austin	Del Rio	El Paso	Pecos	San Antonio	Waco
1945	632	67	17	137	93	143	175
1946	561	36	38	111	115	93	168
1947	706	43	16	183	170	190	104
1948	574	45	9	124	202	131	63
1949	687	52	10	152	213	166	94
1950	553	53	14	79	190	93	124
1951	526	79	11	88	154	99	95
1952	663	47	9	125	228	128	126
1953	777	66	17	126	251	219	98
1954	732	72	18	65	234	170	173
1955	680	58	23	85	233	176	105

Criminal cases commenced in the western district of Texas, by office [1]

Fiscal year	Total	Austin	Del Rio	El Paso	Pecos	San Antonio	Waco
1945	2,915	85	130	2,347	2	294	57
1946	2,285	42	288	1,625	----------	295	35
1947	2,787	35	200	2,028	4	494	26
1948	3,233	43	356	2,247	6	541	30
1949	4,804	56	355	3,823	10	524	36
1950	5,065	25	444	4,210	5	334	47
1951	4,854	23	1,475	2,627	3	687	39
1952	5,121	26	1,331	2,890	17	789	68
1953	5,533	41	1,049	3,416	22	971	34
1954	6,136	33	883	4,037	13	1,132	38
1955	3,993	61	679	2,694	11	562	56

[1] Includes transferred cases.

Western District of Texas

Table 1.—*Cases commenced and terminated, by fiscal year, and pending at the end of each year, beginning with 1941*

TOTAL CIVIL CASES

Fiscal year	Commenced	Terminated	Pending June 30	Fiscal year	Commenced	Terminated	Pending June 30
1941	217	234	103	1949	687	612	438
1942	263	190	176	1950	553	586	405
1943	455	308	323	1951	526	448	483
1944	366	370	319	1952	663	585	561
1945	632	489	462	1953	777	679	659
1946	561	607	416	1954	732	754	637
1947	706	553	569	1955	680	635	682
1948	574	780	363				

PRIVATE CIVIL CASES

Fiscal year	Commenced	Terminated	Pending June 30	Fiscal year	Commenced	Terminated	Pending June 30
1941	105	128	43	1949	321	264	193
1942	138	110	71	1950	327	297	223
1943	112	86	97	1951	294	291	226
1944	99	114	82	1952	386	335	277
1945	103	104	81	1953	457	386	348
1946	149	139	91	1954	495	484	359
1947	239	181	149	1955	452	469	342
1948	320	333	136				

Table 2.—*United States civil cases and criminal cases commenced and terminated, by fiscal year, and pending at the end of each year, beginning with 1941*

UNITED STATES CIVIL CASES (UNITED STATES A PARTY)

[Price and rent-control cases are in parentheses [1]]

Fiscal year	Commenced	Terminated	Pending June 30	Fiscal year	Commenced	Terminated	Pending June 30
1941	112	106	60	1949	366 (157)	348	245
1942	125	80	105	1950	226 (17)	289	182
1943	343 (128)	222	226	1951	232	157	257
1944	267 (102)	256	237	1952	277 (16)	250	284
1945	529 (377)	385	381	1953	320 (4)	293	311
1946	412 (251)	468	325	1954	237	270	278
1947	467 (282)	372	420	1955	228	166	340
1948	254 (110)	447	227				

CRIMINAL CASES [2]

[Cases transferred are not included in "Commenced" and "Terminated" columns]

Fiscal year	Commenced	Terminated	Pending June 30	Fiscal year	Commenced	Terminated	Pending June 30
1941	1,227	1,223	45	1949	4,793 (4,266)	4,763	94
1942	1,131 (608)	1,118	58	1950	5,051 (4,590)	5,040	84
1943	1,208 (763)	1,201	65	1951	4,833 (4,349)	4,853	62
1944	1,945 (1,266)	1,937	73	1952	5,105 (4,307)	4,979	183
1945	2,915 (2,265)	2,899	89	1953	5,514 (4,896)	5,466	220
1946	2,285 (1,663)	2,323	51	1954	6,108 (5,610)	6,179	139
1947	2,770 (2,056)	2,748	74	1955	3,967 (3,552)	3,948	145
1948	3,199 (2,575)	3,171	92				

[1] Price- and rent-control cases are separately listed from 1943 to 1953. In many of these years they constituted a large proportion of all civil cases commenced, although they required on the average a relatively small proportion of court time per case for disposition. They are included in the figure which they follow.

[2] Criminal illegal immigration cases commenced are listed in parentheses for 1952 and subsequent years and they are included in the figure which they follow. For the years 1942–51 the number of defendants, usually 1 per case, is shown separately. These cases are listed because they constitute a large proportion of the criminal cases in the district, although pleas of guilty are entered in almost all of them with the result that the judicial time devoted to the disposition of each case is relatively small.

TABLE 3.—*Cases commenced per judgeship*

Fiscal year	Number of judgeships	Total civil cases		Private civil cases		Criminal cases (less immigration) [1]	
		Texas (western)	National average [2]	Texas (western)	National average [2]	Texas (western)	National average [2]
1941	2	109	164	53	82	----------	153
1942	2	132	168	69	77	262	161
1943	2	228	158	56	58	253	174
1944	2	183	169	50	56	340	184
1945	2	316	295	52	57	325	176
1946	2	281	321	75	70	311	142
1947	2	353	271	120	109	357	134
1948	2	287	205	160	117	312	123
1949	2	344	238	161	121	264	123
1950	2	277	222	164	113	231	116
1951	2	263	204	147	111	242	106
1952	2	332	236	193	126	399	112
1953	2	389	261	229	146	309	114
1954	2	366	210	248	127	249	103
1955	2	340	212	226	126	208	104

[1] Immigration cases have been eliminated from this table because they occur in volume in only 5 districts on the Mexican border and because the average judicial time per case for their disposition is small.
[2] This column includes 86 districts for 1949 and thereafter; 84 districts before 1949.

TABLE 4.—*Time elapsing in civil cases tried* [1]

Fiscal year	Number of cases tried	Median interval in months from filing to disposition		Median interval in months from issue to trial	
		Texas (western)	National median	Texas (western)	National median
1945	21	----------	9.0	----------	5.3
1946	38	4.4	8.9	3.7	5.0
1947	39	6.4	9.0	3.7	5.1
1948	86	6.8	9.9	3.9	5.8
1949	82	6.7	10.4	4.3	5.9
1950	72	7.9	11.2	6.2	6.7
1951	54	10.3	12.2	6.2	7.3
1952	43	11.0	12.1	6.3	7.0
1953	65	12.8	12.4	8.3	7.4
1954	78	11.7	13.5	8.9	8.1
1955	62	11.8	14.6	4.5	9.1

[1] The median time interval in months is computed for the civil cases in which a trial was held, which were terminated during the year, excluding land condemnation, habeas corpus, and forfeiture proceedings. No median interval is shown for the years 1945–52 where less than 25 cases were terminated after trial. For the year 1953 and subsequent years, where there were less than 25 cases terminated after trial, a median is listed with an asterisk (*) on the basis of the number of cases terminated after trial for the last 2 years, provided there were 25 such cases for the 2 years.

TABLE 5.—*Cases commenced per judgeship in this district and in 86 districts, by nature of suit, fiscal year 1955*

Civil cases	Texas (western)	86 districts
Total cases	340	212
United States cases	114	86
Private cases	226	126
United States cases:		
United States plaintiff	76	68
Land condemnation	9	3
Fair Labor Standards Act	5	2
Other enforcement suits	3	3
Food and Drug Act	2	5
Liquor laws		2
Other forfeitures and penalties	7	4
Negotiable instruments	21	25
Other contracts	29	16
Other United States plaintiff	3	8
United States defendant	38	17
Enjoin Federal agencies	7	3
Habeas corpus	6	4
Tort Claims Act	8	4
Tax suits	15	4
Other United States defendant	3	3
Private cases:		
Federal question	14	31
Copyright	3	1
Employers' Liability Act	1	6
Fair Labor Standards Act	1	1
Habeas corpus	1	3
Jones Act		9
Miller Act	3	1
Patent	2	3
Other Federal question	6	7
Diversity of citizenship	212	84
Insurance	129	14
Other contracts	16	15
Real property	4	3
Personal injury (motor vehicle)	33	22
Personal injury (other)	22	15
Other diversity	10	5
Admiralty		11
Criminal cases (less immigration)	208	104

TABLE 6.—*Civil and criminal trials commenced, by fiscal year*

Fiscal year	Total trials commenced	Civil			Criminal		
		Total	Nonjury	Jury	Total	Nonjury	Jury
1951	132	72	25	47	60	21	39
1952	133	64	15	49	69	15	54
1953	158	76	31	45	82	16	66
1954	145	90	38	52	55	23	32
1955	125	67	20	47	58	30	28

CIVIL AND CRIMINAL TRIALS COMMENCED PER JUDGSHIP

Fiscal year	Number of judgeships	Total trials		Civil		Criminal	
		Texas (western)	National average [1]	Texas (western)	National average [1]	Texas (western)	National average [1]
1951	2	66	39	36	28	30	11
1952	2	67	40	32	27	35	13
1953	2	79	44	38	29	41	15
1954	2	73	40	45	25	28	15
1955	2	63	41	34	26	29	15

[1] This column includes 86 districts.

TABLE 7.—*Civil cases pending per judgeship on June 30, 1955*

Nature of suit	Cases pending per judgeship	
	Texas (western)	National average
Total civil cases	341	258
United States civil cases	170	89
Private civil cases	171	169
United States plaintiff	121	58
Land condemnation	69	13
Antitrust		
Other enforcement suits	8	8
Forfeitures and penalties	3	4
Negotiable instruments	18	12
Other contracts	21	13
Other United States plaintiff	3	7
United States Defendant	50	31
Tort Claims Act	9	7
Tax suits	23	8
Other United States defendant	18	16
Federal question	13	47
Antitrust	1	2
Copyright	2	2
F. E. L. A.	1	8
Jones Act		18
Patent	2	5
Other Federal question	8	12
Diversity of citizenship	158	98
Insurance	78	10
Other contracts	18	20
Real property	5	2
Personal injury (motor vehicle)	27	34
Personal injury (other)	21	21
Other diversity	11	11
Admiralty		24

AGE OF CIVIL CASES PENDING ON JUNE 30, 1955

Jurisdiction	Total pending	Age of civil cases pending—						
		Less than 6 months	6 months to 1 year	1 year to 2 years	2 years to 3 years	3 years to 4 years	4 years to 5 years	5 years and over
Total civil cases	682	262	141	133	63	28	21	34
United States civil	340	95	48	74	52	23	17	31
United States plaintiff	241	55	33	55	33	18	16	31
United States defendant	99	40	15	19	19	5	1	
Private civil	342	167	93	59	11	5	4	3
Federal question	26	12	5	3	2	1	1	2
Diversity	316	155	88	56	9	4	3	1
Admiralty								

APPENDIX 23

DISTRICT OF NEVADA

TABLE 1.—*Cases commenced and terminated, by fiscal year, and pending at the end of each year, beginning with 1941*

TOTAL CIVIL CASES

Fiscal year	Commenced	Terminated	Pending June 30	Fiscal year	Commenced	Terminated	Pending June 30
1941	43	44	95	1949	81	73	98
1942	63	92	66	1950	93	86	105
1943	75	78	63	1951	62	72	95
1944	54	42	75	1952	74	73	96
1945	122	74	123	1953	66	50	112
1946	85	120	88	1954	86	81	117
1947	89	79	98	First half of 1955	50	42	125
1948	71	79	90				

UNITED STATES CIVIL CASES (UNITED STATES A PARTY)

[OPA cases are in parentheses [1]]

Fiscal year	Commenced	Terminated	Pending June 30	Fiscal year	Commenced	Terminated	Pending June 30
1941	23	19	57	1949	50 (25)	45	47
1942	35	65	27	1950	53 (22)	48	52
1943	50 (1)	50	27	1951	25 (1)	39	38
1944	36 (4)	27	36	1952	43 (2)	41	40
1945	100 (78)	49	87	1953	35 (3)	22	53
1946	64 (42)	100	51	1954	45	49	49
1947	54 (23)	47	58	First half of 1955	22	22	49
1948	33 (16)	49	42				

PRIVATE CIVIL CASES

Fiscal year	Commenced	Terminated	Pending June 30	Fiscal year	Commenced	Terminated	Pending June 30
1941	20	26	38	1949	31	28	51
1942	28	27	39	1950	40	38	53
1943	25	78	36	1951	37	33	57
1944	18	15	39	1952	31	32	56
1945	22	25	36	1953	31	28	59
1946	21	20	37	1954	41	32	68
1947	35	32	40	First half of 1955	28	20	76
1948	38	30	48				

CRIMINAL CASES

[Cases transferred are not included in "Commenced" and "Terminated" columns]

Fiscal year	Commenced	Terminated	Pending June 30	Fiscal year	Commenced	Terminated	Pending June 30
1941	122	136	24	1949	116	111	27
1942	165	158	31	1950	115	128	17
1943	221	235	17	1951	128	126	19
1944	192	177	32	1952	95	91	19
1945	157	161	28	1953	130	123	22
1946	168	180	16	1954	179	148	47
1947	178	179	16	First half of 1955	61	71	38
1948	131	131	21				

[1] OPA cases, including rent control, are separately listed because from 1945 to 1947 they constituted a large proportion of all civil cases commenced, although they required on the average a relatively small proportion of court time per case for disposition during those years. They are included in the figure which they follow.

TABLE 2.—*Cases commenced per judgeship*

TOTAL CIVIL CASES

Fiscal year	Nevada			National average: Cases commenced per judgeship [1]
	Number of judgeships	Cases commenced		
		Total	Per judgeship	
1941	1	43	43	164
1942	1	63	63	168
1943	1	75	75	158
1944	1	54	54	169
1945	1	122	122	295
1946	1	85	85	321
1947	1	89	89	271
1948	1	71	71	205
1949	1	81	81	238
1950	1	93	93	222
1951	1	62	62	204
1952	1	74	74	236
1953	1	66	66	261
1954	2	86	43	210

UNITED STATES CIVIL CASES (UNITED STATES A PARTY)

Fiscal year	Nevada		National average: Cases commenced per judgeship [1]	Fiscal year	Nevada		National average: Cases commenced per judgeship [1]
	Cases commenced	Cases commenced per judgeship			Cases commenced	Cases commenced per judgeship	
1941	23	23	83	1948	33	33	87
1942	35	35	91	1949	50	50	118
1943	50	50	100	1950	53	53	109
1944	36	36	113	1951	25	25	93
1945	100	100	238	1952	43	43	110
1946	64	64	251	1953	35	35	115
1947	54	54	162	1954	45	23	84

PRIVATE CIVIL CASES

Fiscal year	Nevada		National average: Cases commenced per judgeship [1]	Fiscal year	Nevada		National average: Cases commenced per judgeship [1]
	Cases commenced	Cases commenced per judgeship			Cases commenced	Cases commenced per judgeship	
1941	20	20	82	1948	38	38	117
1942	28	28	77	1949	31	31	121
1943	25	25	58	1950	40	40	113
1944	18	18	56	1951	37	37	111
1945	22	22	57	1952	31	31	126
1946	21	21	70	1953	31	31	146
1947	35	35	109	1954	41	21	127

See footnotes at end of table, p. 308.

TABLE 2.—*Cases commenced per judgeship*—Continued

CRIMINAL CASES

Fiscal year	Nevada		National average:	Fiscal year	Nevada		National average:
	Cases commenced	Cases commenced per judgeship	Cases commenced per judgeship [1]		Cases commenced	Cases commenced per judgeship	Cases commenced per judgeship [1]
1941	122	122	165	1948	131	131	167
1942	165	165	174	1949	116	116	177
1943	221	221	190	1950	115	115	169
1944	192	192	211	1951	128	128	180
1945	157	157	209	1952	95	95	177
1946	168	168	171	1953	130	130	171
1947	178	178	173	1954	179	90	172

[1] This column includes all districts having purely Federal jurisdiction: 86 districts for 1949 and thereafter; 84 districts before 1949.

Because caseload figures are given to the nearest whole number, it is not always possible to derive exact totals by adding component parts.

TABLE 3.—*Time intervals in civil cases terminated in which a trial was held, for each fiscal year beginning with 1945*

CURRENCY OF DOCKETS

Fiscal year	Total cases terminated after trial		Percentage of terminated cases requiring less than 6 months for the interval from filing to disposition		Percentage of terminated cases requiring less than 3 months for the interval from issue to trial	
	Nevada	National	Nevada	National [1]	Nevada	National [1]
1945	8	2,883	12.5	29.6	25.0	32.4
1946	4	3,421	25.0	29.3	----------	33.4
1947	11	3,958	9.1	31.9	18.2	32.1
1948	7	4,548	14.3	26.7	----------	27.4
1949	16	4,847	----------	28.5	6.3	28.2
1950	11	5,020	----------	22.3	----------	24.5
1951	15	5,085	----------	20.8	----------	21.9
1952	5	4,767	----------	21.1	20.0	22.8
1953	6	4,941	----------	19.2	16.7	21.2
1954	10	4,825	----------	17.1	----------	19.1

[1] This column includes all districts having purely Federal jurisdiction: 86 districts for 1949 and thereafter; 84 districts before 1949.

The period from filing to disposition is the elapsed time from commencement to termination of the case. The period from issue to trial is the time from filing of the answer to the date trial is begun.

Land condemnation, habeas corpus and forfeiture cases are not included because they are not representative of the time required for the general run of civil cases.

TABLE 4.—*Cases commenced per judgeship in the district of Nevada and in 86 districts in the fiscal year 1954 by nature of suit*

	Cases commenced per judgeship		National average: Cases terminated 1954: Percentage reaching trial [1]
	Nevada	86 districts	
Civil cases:			*Percent*
Total cases	43	210	11
United States cases	23	84	9
Private cases	21	127	13
United States plaintiff	21	65	6
Land condemnation		3	
Fair Labor Standards Act		2	11
Other enforcement suits	1	3	13
Food and Drug Act	5	5	1
Liquor laws	1	3	28
Other forfeitures and penalties	4	4	8
Negotiable instruments	5	25	1
Other contracts	3	13	4
Other United States plaintiff	3	6	7
United States defendant	2	19	16
Enjoin Federal agencies		2	18
Habeas corpus		4	12
Tort Claims Act	1	5	17
Tax suits		4	19
Other United States defendant	1	4	16
Federal question	3	33	11
Copyright		1	6
Employers' Liability Act	1	6	22
Fair Labor Standards Act		1	12
Habeas corpus	1	3	4
Jones Act		10	5
Miller Act	1	2	12
Patent		3	17
Other Federal question	1	9	10
Diversity of citizenship	18	81	15
Insurance	2	14	14
Other contracts	5	15	16
Real property	1	3	17
Personal injury (motor vehicle)	6	30	14
Personal injury (other negligence)	2	14	16
Other diversity	3	5	14
Admiralty		13	8
Criminal cases	90	172	9

[1] This column shows, by nature of suit, the percentage of all cases which were terminated after reaching the trial stage in the 86 United States district courts having purely Federal jurisdiction. Because these figures have been relatively stable over a period of years, they are valuable in assessing the relative burden on each judge of the caseloads given in the other two columns in terms of the probability that a given number of cases in each category will actually reach trial.

TABLE 1.—*Cases commenced and terminated, by fiscal year, and pending at the end of each year, beginning with 1941*

TOTAL CIVIL CASES

Fiscal year	Commenced	Terminated	Pending June 30	Fiscal year	Commenced	Terminated	Pending June 30
1941	133	147	52	1949	164	122	123
1942	137	98	91	1950	176	189	110
1943	125	97	119	1951	169	170	109
1944	138	106	151	1952	229	221	117
1945	194	234	111	1953	303	282	138
1946	214	213	112	1954	229	206	161
1947	142	134	120	First half of 1955	140	131	170
1948	115	154	81				

UNITED STATES CIVIL CASES (UNITED STATES A PARTY)

[OPA cases are in parentheses [1]

Fiscal year	Commenced	Terminated	Pending June 30	Fiscal year	Commenced	Terminated	Pending June 30
1941	60	76	25	1949	72 (12)	62	69
1942	76	49	52	1950	80 (6)	85	64
1943	83 (2)	59	76	1951	76 (1)	74	66
1944	88 (16)	61	103	1952	70 (7)	79	57
1945	151 (93)	162	92	1953	98 (9)	101	54
1946	154 (118)	163	83	1954	63	48	69
1947	77 (34)	85	75	First half of 1955	44	62	51
1948	57 (4)	73	59				

PRIVATE CIVIL CASES

Fiscal year	Commenced	Terminated	Pending June 30	Fiscal year	Commenced	Terminated	Pending June 30
1941	73	71	27	1949	92	60	54
1942	61	49	39	1950	96	104	46
1943	42	38	43	1951	93	96	43
1944	50	45	48	1952	159	142	60
1945	43	72	19	1953	205	181	84
1946	60	50	29	1954	166	158	92
1947	65	49	45	First half of 1955	96	69	119
1948	58	81	22				

CRIMINAL CASES

[Cases transferred are not included in "Commenced" and "Terminated" columns]

Fiscal year	Commenced	Terminated	Pending June 30	Fiscal year	Commenced	Terminated	Pending June 30
1941	288	231	86	1949	589	584	34
1942	326	357	55	1950	1,038	1,046	18
1943	471	419	107	1951	580	531	73
1944	333	381	59	1952	529	561	30
1945	461	512	8	1953	678	676	23
1946	738	730	16	1954	544	516	40
1947	1,086	1,031	59	First half of 1955	275	260	44
1948	610	618	32				

[1] OPA cases, including rent control, are separately listed because from 1945 to 1947 they constituted a large proportion of all civil cases commenced, although they required on the average a relatively small proportion of court time per case for disposition during those years. They are included in the figure which they follow.

TABLE 2.—*Cases commenced per judgeship*

TOTAL CIVIL CASES

Fiscal year	New Mexico		National average: Cases commenced per judgeship [1]	Fiscal year	New Mexico		National average: Cases commenced per judgeship [1]
	Number of judgeships	Cases commenced per judgeship			Number of judgeships	Cases commenced per judgeship	
1941	1	133	164	1948	1	115	205
1942	1	137	168	1949	1	164	238
1943	1	125	158	1950	1	176	222
1944	1	138	169	1951	1	169	204
1945	1	194	295	1952	1	229	236
1946	1	214	321	1953	1	303	261
1947	1	142	271	1954	2	115	210

UNITED STATES CIVIL CASES (UNITED STATES A PARTY)

Fiscal year	New Mexico	National average: Cases commenced per judgeship [1]	Fiscal year	New Mexico	National average: Cases commenced per judgeship [1]
	Cases commenced per judgeship			Cases commenced per judgeship	
1941	60	83	1948	57	87
1942	76	91	1949	72	118
1943	83	100	1950	80	109
1944	88	113	1951	76	93
1945	151	238	1952	70	110
1946	154	251	1953	98	115
1947	77	162	1954	32	84

PRIVATE CIVIL CASES

Fiscal year	New Mexico	National average: Cases commenced per judgeship [1]	Fiscal year	New Mexico	National average: Cases commenced per judgeship [1]
	Cases commenced per judgeship			Cases commenced per judgeship	
1941	73	82	1948	58	117
1942	61	77	1949	92	121
1943	42	58	1950	96	113
1944	50	56	1951	93	111
1945	43	57	1952	159	126
1946	60	70	1953	205	146
1947	65	109	1954	83	127

CRIMINAL CASES

Fiscal year	New Mexico	National average: Cases commenced per judgeship [1]	Fiscal year	New Mexico	National average: Cases commenced per judgeship [1]
	Cases commenced per judgeship			Cases commenced per judgeship	
1941	288	165	1948	610	167
1942	326	174	1949	589	177
1943	471	190	1950	1,038	169
1944	333	211	1951	580	160
1945	461	209	1952	529	177
1946	738	171	1953	678	171
1947	1,086	173	1954	272	172

[1] This column includes 86 districts for 1949 and thereafter; 84 districts before 1949.

Because caseload figures are given to the nearest whole number, it is not always possible to derive exact totals by adding component parts.

TABLE 3.—*Time intervals in civil cases terminated in which a trial was held, for each fiscal year beginning with 1945*

CURRENCY OF DOCKETS

Fiscal year	Total cases terminated after trial		Median time intervals (in months) [1]			
			Filing to disposition		Issue to trial	
	New Mexico	National [2]	New Mexico	National [2]	New Mexico	National [2]
1945	34	2,883	5.7	9.0	2.3	5.3
1946	25	3,421	4.8	8.9	2.4	5.0
1947	24	3,963	----------	9.0	----------	5.1
1948	32	4,548	7.6	9.9	3.0	5.8
1949	30	4,847	6.9	10.4	3.9	5.9
1950	35	5,020	7.7	11.2	2.8	6.7
1951	35	5,085	6.2	12.2	3.4	7.3
1952	47	4,767	5.9	12.1	2.1	7.0
1953	55	4,941	6.3	12.4	3.2	7.4
1954	43	4,825	8.3	13.5	3.6	8.1

[1] The median time interval from filing to disposition is computed by arranging all cases terminated during the year, in which a trial was held, in order according to the time from filing to disposition, from the lowest to the highest. The median time is then the time required for the middle case of the series or if there is an even number of cases, it is the average time for the 2 middle cases. The same procedure is followed in determining the median time from issue to trial. The median instead of the average is used because it prevents distortion of the result by a few nontypical long or short cases. No median has been computed where there were less than 25 cases.

The period from filing to disposition is the elapsed time from commencement to termination of the case. The period from issue to trial is the time from filing of the answer to the date trial is begun.

Land condemnation, habeas corpus and forfeiture cases are not included because they are not representative of the time required for the general run of civil cases.

[2] These columns show the number of cases and the median time intervals for 86 districts for 1949 and thereafter; 84 districts before 1949.

TABLE 4.—*Cases commenced per judgeship in the district of New Mexico and in 86 districts in the fiscal year 1954 by nature of suit*

	Cases commenced per judgeship		National average: Cases terminated 1954: Percentage reaching trial [1]
	New Mexico	86 districts	
Civil cases:			*Percent*
Total cases	115	210	11
United States cases	32	84	9
Private cases	83	127	13
United States plaintiff	25	65	6
Land condemnation	3	3	
Fair Labor Standards Act	1	2	11
Other enforcement suits		3	13
Food and Drug Act	3	5	1
Liquor laws		3	28
Other forfeitures and penalties	3	4	8
Negotiable instruments	12	25	1
Other contracts	2	13	4
Other United States plaintiff	3	6	7
United States defendant	7	19	16
Enjoin Federal agencies	1	2	18
Habeas corpus		4	12
Tort Claims Act	4	5	17
Tax suits	1	4	19
Other United States defendant	1	4	16
Federal question	18	33	11
Copyright		1	6
Employers' Liability Act	1	6	22
Fair Labor Standards Act	2	1	12
Habeas corpus		3	4
Jones Act		10	5
Miller Act	8	2	12
Patent	1	3	17
Other Federal question	7	9	10
Diversity of citizenship	65	81	15
Insurance	6	14	14
Other contracts	12	15	16
Real property	9	3	17
Personal injury (motor vehicle)	28	30	14
Personal injury (other negligence)	8	14	16
Other diversity	4	5	14
Admiralty		13	8
Criminal cases	272	172	9

[1] This column shows, by nature of suit, the percentage of all cases which were terminated after reaching the trial stage in the 86 United States district courts having purely Federal jurisdiction. Because these figures have been relatively stable over a period of years, they are valuable in assessing the relative burden on each judge of the caseloads given in the other 2 columns in terms of the probability that a given number of cases in each category will actually reach trial.

District of South Dakota

TABLE 1.—*Cases commenced and terminated, by fiscal year, and pending at the end of each year, beginning with 1941*

TOTAL CIVIL CASES

Fiscal year	Commenced	Terminated	Pending June 30	Fiscal year	Commenced	Terminated	Pending June 30
1941	78	70	68	1949	118	110	103
1942	88	73	83	1950	115	120	98
1943	83	81	85	1951	126	105	119
1944	119	115	89	1952	189	147	161
1945	220	138	171	1953	170	139	192
1946	322	320	173	1954	152	119	225
1947	189	249	113	First half of 1955	73	103	195
1948	107	125	95				

UNITED STATES CIVIL CASES (UNITED STATES A PARTY)

[OPA cases are in parentheses [1]]

Fiscal year	Commenced	Terminated	Pending June 30	Fiscal year	Commenced	Terminated	Pending June 30
1941	52	47	34	1949	88 (9)	85	72
1942	60	44	50	1950	78 (1)	78	72
1943	63 (3)	52	61	1951	90 (2)	68	94
1944	107 (36)	95	73	1952	143 (11)	108	129
1945	205 (146)	132	146	1953	124 (17)	103	150
1946	306 (241)	300	152	1954	98	71	177
1947	163 (59)	227	88	First half of 1955	43	72	148
1948	64 (3)	83	69				

PRIVATE CIVIL CASES

Fiscal year	Commenced	Terminated	Pending June 30	Fiscal year	Commenced	Terminated	Pending June 30
1941	26	23	34	1949	30	25	31
1942	28	29	33	1950	37	42	26
1943	20	29	24	1951	36	37	25
1944	12	20	16	1952	46	39	32
1945	15	6	25	1953	46	36	42
1946	16	20	21	1954	54	48	48
1947	26	22	25	First half of 1955	30	31	47
1948	43	42	26				

CRIMINAL CASES

[Cases transferred are not included in "Commenced" and "Terminated" columns]

Fiscal year	Commenced	Terminated	Pending June 30	Fiscal year	Commenced	Terminated	Pending June 30
1941	155	143	39	1949	116	118	42
1942	152	135	56	1950	113	99	55
1943	156	155	57	1951	181	147	85
1944	141	134	64	1952	148	141	91
1945	86	98	52	1953	191	172	102
1946	81	82	51	1954	125	127	86
1947	97	99	41	First half of 1955	62	105	41
1948	83	79	47				

[1] OPA cases, including rent control, are separately listed because from 1945 to 1947 they constituted a large proportion of all civil cases commenced, although they required on the average a relatively small proportion of court time per case for disposition during those years. They are included in the figure which they follow.

TABLE 2.—*Cases commenced per Judgeship*

TOTAL CIVIL CASES

Fiscal year	South Dakota		National average: Cases commenced per judgeship [1]	Fiscal year	South Dakota		National average: Cases commenced per judgeship [1]
	Number of judgeships	Cases commenced per judgeship			Number of judgeships	Cases commenced per judgeship	
1941	1	78	164	1948	1	107	205
1942	1	88	168	1949	1	118	238
1943	1	83	158	1950	1	115	222
1944	1	119	169	1951	1	126	204
1945	1	220	295	1952	1	189	236
1946	1	322	321	1953	1	170	261
1947	1	189	271	1954	2	76	210

UNITED STATES CIVIL CASES (UNITED STATES A PARTY)

Fiscal year	South Dakota, cases commenced per judgeship	National average: Cases commenced per judgeship [1]	Fiscal year	South Dakota, cases commenced per judgeship	National average: Cases commenced per judgeship [1]
1941	52	83	1948	54	87
1942	60	91	1949	88	118
1943	63	100	1950	78	109
1944	107	113	1951	90	93
1945	205	238	1952	143	110
1946	306	251	1953	124	115
1947	163	162	1954	49	84

PRIVATE CIVIL CASES

Fiscal year	South Dakota, cases commenced per judgeship	National average: Cases commenced per judgeship [1]	Fiscal year	South Dakota, cases commenced per judgeship	National average: Cases commenced per judgeship [1]
1941	26	82	1948	43	117
1942	28	77	1949	30	121
1943	20	58	1950	37	113
1944	12	56	1951	36	111
1945	15	57	1952	46	126
1946	16	70	1953	46	146
1947	26	109	1954	27	127

CRIMINAL CASES

Fiscal year	South Dakota, cases commenced per judgeship	National average: Cases commenced per judgeship [1]	Fiscal year	South Dakota, cases commenced per judgeship	National average: Cases commenced per judgeship [1]
1941	155	165	1948	83	167
1942	152	174	1949	116	177
1943	156	190	1950	113	169
1944	141	211	1951	181	180
1945	86	209	1952	148	177
1946	81	171	1953	191	171
1947	97	173	1954	63	172

[1] This column includes 86 districts for 1949 and thereafter; 84 districts before 1949.
Because caseload figures are given to the nearest whole number, it is not always possible to derive exact totals by adding component parts.

TABLE 3.—*Time intervals in civil cases terminated in which a trial was held, for each fiscal year beginning with 1945*

CURRENCY OF DOCKETS

Fiscal year	Total cases terminated after trial		Percentage of terminated cases requiring less than 6 months for the interval from filing to disposition		Percentage of terminated cases requiring less than 3 months for the interval from issue to trial	
	South Dakota	National [1]	South Dakota	National [1]	South Dakota	National [1]
1945	4	2,883	75.0	29.6	75.0	32.4
1946	6	3,421	50.0	29.3	33.3	33.4
1947	6	3,963	83.3	31.9	66.7	32.1
1948	10	4,548	40.0	26.7	20.0	27.4
1949	13	4,847	7.7	28.5	15.4	28.2
1950	7	5,020	14.3	22.3	28.6	24.5
1951	10	5,085	60.0	20.8	30.0	21.0
1952	18	4,767	33.3	21.1	33.3	22.8
1953	11	4,941	9.1	19.2	27.3	21.2
1954	12	4,925	33.3	17.1	33.3	19.1

[1] This column includes all districts having purely Federal jurisdiction: 86 districts for 1949 and thereafter; 84 districts before 1949.

The period from filing to disposition is the elapsed time from commencement to termination of the case. The period from issue to trial is the time from filing of the answer to the date trial is begun.

Land condemnation, habeas corpus and forfeiture cases are not included because they are not representative of the time required for the general run of civil cases.

TABLE 4.—*Cases commenced per judgeship in the district of South Dakota and in 86 districts in the fiscal year 1954 by nature of suit*

	Cases commenced per judgeship		National average: Cases terminated 1954: Percentage reaching trial [1]
	South Dakota	86 districts	
			Percent
Civil cases:			
Total cases	76	210	11
United States cases	49	84	9
Private cases	27	127	13
United States plaintiff	45	65	6
Land condemnation	8	3	----
Fair Labor Standards Act	----	2	11
Other enforcement suits	1	3	13
Food and Drug Act	3	5	1
Liquor laws	----	3	28
Other forfeitures and penalties	2	4	8
Negotiable instruments	16	25	1
Other contracts	10	13	4
Other United States plaintiff	6	6	7
United States defendant	4	19	16
Enjoin Federal agencies	1	2	18
Habeas corpus	2	4	12
Tort Claims Act	1	5	17
Tax suits	----	4	19
Other United States defendant	2	4	16
Federal question	1	33	11
Copyright	----	1	6
Employers' Liability Act	----	6	22
Fair Labor Standards Act	----	1	12
Habeas corpus	----	3	4
Jones Act	----	10	5
Miller Act	1	2	12
Patent	----	3	17
Other Federal question	1	9	10
Diversity of citizenship	26	81	15
Insurance	1	14	14
Other contracts	4	15	16
Real property	----	3	17
Personal injury (motor vehicle)	16	30	14
Personal injury (other negligible)	6	14	16
Other diversity	----	5	14
Admiralty	----	13	8
Criminal cases	63	173	9

[1] This column shows, by nature of suit, the percentage of all cases which were terminated after reaching the trial stage in the 86 United States district courts having purely Federal jurisdiction. Because these figures have been relatively stable over a period of years, they are valuable in assessing the relative burden on each judge of the caseloads given in the other 2 columns in terms of the probability that a given number of cases in each category will actually reach trial.

Western District of Pennsylvania

TABLE 1.—*Cases commenced and terminated, by fiscal year, and pending at the end of each year, beginning with 1941*

Fiscal year	Commenced	Terminated	Pending June 30	Fiscal year	Commenced	Terminated	Pending June 30
1941	512	442	555	1949	739	599	1,068
1942	671	637	589	1950	1,085	880	1,273
1943	522	523	588	1951	780	1,164	889
1944	447	409	626	1952	1,032	685	1,236
1945	1,451	1,125	952	1953	999	819	1,416
1946	1,341	1,184	1,109	1954	963	836	1,543
1947	797	808	1,098	First half of 1955	545	464	1,624
1948	707	877	928				

UNITED STATES CIVIL CASES (UNITED STATES A PARTY)

[OPA cases are in parentheses [1]]

Fiscal year	Commenced	Terminated	Pending June 30	Fiscal year	Commenced	Terminated	Pending June 30
1941	311	238	321	1949	416 (120)	446	406
1942	440 (3)	410	351	1950	628 (86)	544	490
1943	321 (24)	296	376	1951	402 (81)	559	333
1944	315 (97)	310	381	1952	535 (143)	368	500
1945	1,326 (1,142)	1,011	696	1953	520 (139)	544	476
1946	1,126 (901)	1,015	807	1954	443	380	539
1947	512 (304)	666	653	First half of 1955	250	265	524
1948	390 (59)	607	436				

PRIVATE CIVIL CASES

Fiscal year	Commenced	Terminated	Pending June 30	Fiscal year	Commenced	Terminated	Pending June 30
1941	201	204	234	1949	323	153	662
1942	231	227	238	1950	457	336	783
1943	201	227	212	1951	378	605	556
1944	132	99	245	1952	497	317	736
1945	125	114	256	1953	479	275	940
1946	215	169	302	1954	520	456	1,004
1947	285	142	445	First half of 1955	295	199	1,100
1948	317	270	492				

CRIMINAL CASES

[Cases transferred are not included in "Commenced" and "Terminated" columns]

Fiscal year	Commenced	Terminated	Pending June 30	Fiscal year	Commenced	Terminated	Pending June 30
1941	309	342	84	1949	247	248	120
1942	332	327	89	1950	339	306	153
1943	450	406	133	1951	235	258	121
1944	540	531	142	1952	279	219	182
1945	471	437	176	1953	204	234	150
1946	365	367	174	1954	356	380	129
1947	281	302	148	First half of 1955	159	142	140
1948	246	266	131				

[1] OPA cases, including rent control, are separately listed because from 1945 to 1947 they constituted a large proportion of all civil cases commenced, although they required on the average a relatively small proportion of court time per case for disposition during those years. They are included in the figure which they follow.

TABLE 2.—*Cases commenced per judgeship*

TOTAL CIVIL CASES

Fiscal year	Pennsylvania (western)			National average: Cases commenced per judgeship [1]
	Number of judgeships	Cases commenced		
		Total	Per judgeship	
1941	3	512	171	164
1942	3	671	224	168
1943	3	522	174	158
1944	3	447	149	160
1945	3	1,451	484	295
1946	3	1,341	447	321
1947	3½	797	242	271
1948	3½	707	212	205
1949	3½	739	222	238
1950	4½	1,085	250	222
1951	4½	780	180	204
1952	4½	1,032	238	236
1953	4½	999	231	261
1954	6½	963	152	210

UNITED STATES CIVIL CASES (UNITED STATES A PARTY)

Fiscal year	Pennsylvania (western)		National average: Cases commenced per judgeship [1]	Fiscal year	Pennsylvania (western)		National average: Cases commenced per judgeship [1]
	Cases commenced	Cases commenced per judgeship			Cases commenced	Cases commenced per judgeship	
1941	311	104	83	1948	390	117	87
1942	440	147	91	1949	416	125	118
1943	321	107	100	1950	628	145	109
1944	315	105	113	1951	402	93	93
1945	1,326	442	235	1952	535	123	110
1946	1,126	375	251	1953	520	120	115
1947	512	155	162	1954	443	70	84

PRIVATE CIVIL CASES

Fiscal year	Pennsylvania (western)		National average: Cases commenced per judgeship [1]	Fiscal year	Pennsylvania (western)		National average: Cases commenced per judgeship [1]
	Cases commenced	Cases commenced per judgeship			Cases commenced	Cases commenced per judgeship	
1941	201	67	82	1948	317	95	117
1942	231	77	77	1949	323	97	121
1943	201	67	58	1950	457	105	113
1944	132	44	56	1951	378	87	111
1945	125	42	57	1952	497	115	126
1946	215	72	70	1953	479	111	146
1947	285	86	109	1954	520	82	127

See footnotes at end of table, p. 220.

TABLE 2.—*Cases commenced per judgeship*—Continued

CRIMINAL CASES

Fiscal year	(Pennsylvania (western)		National average: Cases commenced per judgeship [1]	Fiscal year	(Pennsylvania (western)		National average: Cases commenced per judgeship [1]
	Cases commenced	Cases commenced per judgeship			Cases commenced	Cases commenced per judgeship	
1941	309	103	165	1948	246	74	167
1942	332	111	174	1949	247	74	177
1943	450	150	190	1950	339	78	169
1944	540	180	211	1951	235	54	180
1945	471	157	209	1952	279	64	177
1946	365	122	171	1953	204	47	171
1947	281	85	173	1954	356	56	172

[1] This column includes all districts having purely Federal jurisdiction: 86 districts for 1949 and thereafter; 84 districts before 1949.

Because caseload figures are given to the nearest whole number, it is not always possible to derive exact totals by adding component parts.

TABLE 3.—*Time intervals in civil cases terminated in which a trial was held, for each fiscal year beginning with 1945*

CURRENCY OF DOCKETS

Fiscal year	Total cases terminated after trial		Median time intervals (in months) [1]			
			Filing to disposition		Issue to trial	
	Pennsylvania (western)	National [2]	Pennsylvania (western)	National [2]	Pennsylvania (western)	National [2]
1945	36	2,883	8.5	9.0	5.1	5.3
1946	90	3,421	10.2	8.9	8.1	5.0
1947	51	3,963	9.3	9.0	6.4	5.1
1948	61	4,548	8.4	9.9	5.0	5.8
1949	42	4,847	14.5	10.4	10.1	5.9
1950	39	5,020	23.0	11.2	20.3	6.7
1951	139	5,085	21.7	12.2	17.8	7.3
1952	80	4,767	22.0	12.1	15.5	7.0
1953	72	4,941	19.0	12.4	15.0	7.4
1954	123	4,825	27.1	13.5	23.7	9.1

[1] The median time interval from filing to disposition is computed by arranging all cases terminated during the year, in which a trial was held, in order according to the time from filing to disposition, from the lowest to the highest. The median time is then the time required for the middle case of the series or if there is an even number of cases, it is the average time for the 2 middle cases. The same procedure is followed in determining the median time from issue to trial. The median instead of the average is used because it prevents distortion of the result by a few nontypical long or short cases. No median has been computed where there were less than 25 cases.

The period from filing to disposition is the elapsed time from commencement to termination of the case. The period from issue to trial is the time from filing of the answer to the date trial is begun.

Land condemnation, habeas corpus, and forfeiture cases are not included because they are not representative of the time required for the general run of civil cases.

[2] These columns show the number of cases and the median time intervals for all districts having purely Federal jurisdiction (86 districts for 1949 and thereafter; 84 districts before 1949)

TABLE 4.—*Cases commenced per judgeship in the Western District of Pennsylvania and in 86 districts in the fiscal year 1954 by nature of suit*

	Cases commenced per judgeship		National average: Cases terminated 1954: Percentage reaching trial [1]
	Pennsylvania (western)	86 districts	
Civil cases:			*Percent*
Total cases	152	210	11
United States cases	70	84	9
Private cases	82	127	13
United States plaintiff	64	65	6
Land condemnation	6	3	
Fair Labor Standards Act	1	2	11
Other enforcement suits	5	3	13
Food and Drug Act	3	3	1
Liquor laws		3	28
Other forfeitures and penalties	2	4	8
Negotiable instruments	12	25	1
Other contracts	33	13	4
Other United States plaintiff	2	6	7
United States defendant	6	19	16
Enjoin Federal agencies	1	2	18
Habeas corpus		4	12
Tort Claims Act	2	5	17
Tax suits	3	4	19
Other United States defendant		4	16
Federal question	41	33	11
Copyright	1	1	6
Employers' Liability Act	28	6	22
Fair Labor Standards Act		1	12
Habeas corpus	3	3	4
Jones Act	3	10	5
Miller Act		2	12
Patent	1	3	17
Other Federal question	5	9	10
Diversity of citizenship	30	81	15
Insurance	3	14	14
Other contracts	7	15	16
Real property	1	3	17
Personal injury (motor vehicle)	21	30	14
Personal injury (other negligence)	6	14	16
Other diversity	2	5	14
Admiralty	1	13	8
Criminal cases	56	172	9

[1] This column shows, by nature of suit, the percentage of all cases which were terminated after reaching the trial stage in the 86 United States district courts having purely Federal jurisdiction. Because these figures have been relatively stable over a period of years, they are valuable in assessing the relative burden on each judge of the caseloads given in the other 2 columns in terms of the probability that a given number of cases in each category will actually reach trial.

APPENDIX 24

NORTHERN DISTRICT OF ILLINOIS

Present number of judgeships, 8; date last judgeship created, 1950; number of regular places of holding court, 2.

	Illinois (northern)	National average
Court reporter days per judgeship, fiscal year 1955	179	137
Caseload per judgeship, fiscal year 1955 (from table X 9):		
Total civil	261	212
Private civil	203	126
Criminal (except immigration)	72	104
Median time intervals, cases terminated after trial, fiscal year 1955:		
Filing to disposition (months) (from table C 5)	20.3	14.6
Issue to trial (months) (from table C 6)	12.7	9.1
Cases pending per judgeship on June 30, 1955:		
All civil	288	258
Private civil	236	169
Average number of cases disposed of annually per judgeship, fiscal years 1954 and 1955:		
All Civil	312	223
Private civil	209	127

The northern district of Illinois has eight judgeships. The judges, their ages, and the dates on which they entered on duty, are as follows:

THE NORTHERN DISTRICT OF ILLINOIS

Judge	Age	Entered on duty	Judge	Age	Entered on duty
Barnes, John P. (chief judge)	77	1931	LaBuy, J. Walter	67	1944
Sullivan, Philip L.	66	1933	Perry, J. Sam	58	1951
Igoe, Michael L.	70	1938	Hoffman, Julius J.	60	1953
Campbell, William J.	52	1940	Knoch, Win G.	60	1953

The residence of all the judges is in Chicago.

Prior to August 14, 1950, this district had six judgeships. An act of this date created two additional judgeships but a controversy over appointments between the Senate and the executive branch of the Government delayed appointments to the two new judgeships almost 3 years.

The volume of civil business commenced in this district is heavy, because Chicago is the economic and industrial capital of the Middle West, as well as the second most populous city in the United States, the district court receives many difficult and unusual cases. During 6 of the last 10 fiscal years approximately 2,000 civil cases were filed annually. In the other 4 years of this period the filings were higher—in 1946 over 2,600; in 1949 over 2,200; and in 1952 and 1953; 2,567 and 2,946, respectively. The years 1954 and 1955 saw a substantial reduction with filings down to the 2,000 mark. With United States price and rent control suits deducted in 1952 and 1953, which amounted to 647 and 719, respectively, the district shows a surprisingly stable total of civil filings around 2,000 annually with only minor variations.

Civil cases commenced in which the United States is a party show the same pattern of uniformity as to the number filed annually after price and rent control cases are excluded. The ratio of United States civil cases to total civil cases commenced is much smaller in this district than nationally, being about 20 percent of the total compared with 40 percent for all 86 districts. As a result the private cases have been accounting for about 80 percent of the total incoming civil load. Private filings increased in number from 1946 to 1949, but they dropped to 1,157 in 1950 after reaching 1,545 in 1949. In 1952 and 1953 they increased again, reaching 1,714 in the last-mentioned year. In 1954 and 1955 they were about 100 below the 1953 figure.

The metropolitan character and other factors peculiar to the district leave their mark on the types of civil suits commenced. As the largest railroad center

in the world the district receives twice as many Federal Employer's Liability Act cases per judgeship as the national caseload per judgeship. These cases have averaged slightly over 100 per year for the last 10 years in the northern district of Illinois. Because of peculiarities in the law of criminal procedure in the State of Illinois, a great many habeas corpus cases have been filed by State prisoners. A few years ago this district had more Federal question habeas corpus cases than all other districts combined. For the last 3 years they have averaged around 100 per year. In 1947, 238 were filed. Considerable patent litigation arises in this district; cases of this nature have numbered between 50 and 75 yearly for the last 10 years. This gives each judge a patent case-load three times greater than the average for the 86 districts. There has been a continued and steady increase in cases filed under the diversity of citizenship jurisdiction during the past 10 years. Contract and insurance actions which numbered 119 in 1946 were 404 in 1955. Suits to recover damages due to injuries received in motor vehicle accidents rose from 85 in 1946 to 419 in 1955. Other types of personal injury suits in the diversity category have risen from 95 to 227 during the same period.

An especially time consuming type of action in this district has been the antitrust suits, both Government civil and criminal, and private. For example, the civil suit, *U. S.* v. *Dupont*, tried during the fiscal years 1953 and 1954, required 99 days of trial time. On July 15, 1955, there were a total of 11 Government antitrust cases pending in the district, 8 civil and 3 criminal. For a number of years the antitrust caseload in this district has been the second largest in the Nation, being exceeded only by the southern district of New York.

The number of civil cases pending at the end of each fiscal year doubled during the period from 1944 to 1949. The year 1950 brought about an improvement, with a decrease over the previous year. However, for the following 3 years it again increased, reaching 3,170 at the end of 1953. About this time the number of judges serving was increased by 2, to 8, and at the end of 1954 the pending figure dropped to 2,497, and decreased to 2,304 at the end of 1955. Of the 2,304 pending June 30, 1955, 1,886, or 82 percent were private cases. Over a period of 15 years (1941 through 1955) the pending caseload has increased 96 percent, but the entire increase has been in private cases. Pending United States civil cases were 414 on June 30, 1941 and 418 on June 30, 1955. Of the 2,304 civil cases pending June 30, 1955, two-thirds were in 6 natures of suit: There were 84 tax suits against the Government, 87 Employer's Liability Act cases, 120 patent suits, 440 diversity insurance and contract suits, 508 diversity motor vehicle personal injury suits and 292 other types of personal injury negligence suits under the diversity jurisdiction.

The caseload per judgeship of civil cases commenced in this district has been substantially higher than the caseload for all judges in the 86 districts. In the last 15 years there has not been a single year in which the total civil and the private civil caseload per judgeship did not exceed the national average. For the past 5 years the average caseload per judgeship for all civil cases filed has been 291 in this district; for the 86 districts it has been 225. For private civil cases the district's caseload per judgeship has been 189 for the five years; nationally it was 127 for the same period.

During the fiscal year 1955, 293 cases were terminated after having reached the trial stage. The median time interval from filing to disposition for these cases was 20.3 months; from issue to trial it was 12.7 months. These intervals are substantially in excess of the national medians of 14.6 and 9.1 months.

This district does not operate under the master calendar system, each judge being responsible for his own docket of cases. As the median time interval figures just quoted are for the entire district, they do not reflect the delay that may be present in an individual judge's calendar. The following table shows the number of cases terminated after trial was reached in 1955 from the docket of each judge and the median time interval from issue to trial. Land condemnation, forfeiture, and habeas corpus cases are not included.

Number of cases:	*Interval (months)*	*Number of cases:*	*Interval (months)*
37	6.8	44	14.1
54	10.3	24	17.3
26	11.1	32	18.5
41	12.8	33	28.8

The district has a heavy criminal caseload, although it is less than the national average per judgeship. Long trials in criminal anti-trust cases, income tax

evasion cases, and Smith Act cases, for example prevent the conclusion that this docket is unimportant, as it takes a considerable portion of the judges' time. In 1955, 620 criminal cases involving 799 defendants were commenced. Pending at the end of the year undisposed of were 298 cases involving 441 defendants.

The pending caseload of 418 United States cases in this district is at an ideal figure for eight judges. The pending private caseload of 1,886 actions however indicates congestion and additional judgepower is needed to being this load down. If 100 private cases pending is an ideal figure per judgeship, this district's private pending caseload is one and one-third times too heavy. In view of all of the factors that have been mentioned in this report it is reasonable to recommend the creation of one additional permanent judgeship to equalize the present incoming caseload, and an additional temporary judgeship to being the pending caseload down to a more reasonable figure. There should be a time limit of at least 5 years, in connection with the temporary judgeship, before the filling of any permanent vacancies is barred, in order to make the assistance of this temporary judgeship of long enough duration to be effective.

Northern District of Illinois

TABLE 1.—*Civil cases commenced and terminated, by fiscal year, and pending at the end of each year beginning with 1941*

	TOTAL CIVIL CASES				PRIVATE CIVIL CASES		
Fiscal year	Commenced	Terminated	Pending June 30	Fiscal year	Commenced	Terminated	Pending June 30
1941	1,592	1,638	1,173	1941	807	940	759
1942	1,500	1,530	1,143	1942	874	883	748
1943	1,324	1,359	1,108	1943	679	698	729
1944	1,536	1,539	1,105	1944	823	854	698
1945	2,034	1,784	1,355	1945	761	683	776
1946	2,630	2,352	1,633	1946	993	812	957
1947	1,999	1,833	1,799	1947	1,346	982	1,321
1948	1,934	1,532	2,201	1948	1,517	1,150	1,688
1949	2,232	2,079	2,354	1949	1,545	1,528	1,705
1950	1,982	2,306	2,000	1950	1,157	1,555	1,307
1951	1,995	1,774	2,221	1951	1,164	1,036	1,435
1952	2,567	2,127	2,661	1952	1,451	1,225	1,661
1953	2,946	2,437	3,170	1953	1,714	1,386	1,989
1954	2,040	2,713	2,497	1954	1,513	1,656	1,946
1955	2,085	2,278	2,304	1955	1,624	1,684	1,886

TABLE 2.—*United States civil cases and criminal cases commenced and terminated, by fiscal year, and pending at the end of each year beginning with 1941*

	UNITED STATES CIVIL CASES (United States a party) [Price and rent control cases are in parentheses [1]]				CRIMINAL CASES [Cases transferred are not included in "Commenced" and "Terminated" columns]		
Fiscal Year	Commenced	Terminated	Pending June 30	Fiscal Year	Commenced	Terminated	Pending June 30
1941	695	698	414	1941	526	580	157
1942	626	645	395	1942	611	550	[2] 211
1943	645 (109)	661	379	1943	723	708	226
1944	713 (341)	685	407	1944	749	753	222
1945	1,273 (803)	1,101	579	1945	872	869	225
1946	1,637 (1,331)	1,540	676	1946	777	744	258
1947	653 (270)	851	478	1947	664	651	299
1948	417 (92)	382	513	1948	522	591	240
1949	687 (292)	551	649	1949	579	625	224
1950	795 (270)	751	693	1950	734	658	343
1951	831 (306)	738	786	1951	513	548	350
1952	1,116 (647)	902	1,000	1952	485	477	390
1953	1,232 (719)	1,051	1,181	1953	694	594	534
1954	427	1,057	551	1954	586	768	381
1955	461	594	418	1955	620	731	298

[1] Price- and rent-control cases are separately listed from 1943 to 1953. In many of these years they constituted a large proportion of all civil cases commenced, although they required on the average a relatively small proportion of court time per case for disposition. They are included in the figure which they follow.
[2] Adjusted.

TABLE 3.—*Cases commenced per judgeship*

Fiscal year	Number of judgeships	Total civil cases		Private civil cases		Criminal cases (less immigration)[1]	
		Illinois (Northern)	National average [2]	Illinois (Northern)	National average [2]	Illinois (Northern)	National average [2]
1941	6	265	164	150	82	88	153
1942	6	250	168	146	77	102	161
1943	6	221	158	113	58	121	174
1944	6	256	169	137	56	125	184
1945	6	339	295	127	57	145	176
1946	6	438	321	166	70	130	142
1947	6	333	271	224	108	111	134
1948	6	322	205	253	117	87	123
1949	6	372	238	258	121	97	123
1950	6	325	222	193	113	122	116
1951	8	249	204	146	111	63	106
1952	8	321	236	181	126	61	112
1953	8	368	261	214	146	86	114
1954	8	255	210	202	127	66	103
1955	8	261	212	203	126	72	104

[1] Immigration cases have been eleminated from this table because they occur in volume in only 5 districts on the Mexican border and because the average judicial time per case for their disposition is small.

[2] This column includes 86 districts for 1949 and thereafter: 84 districts before 1949.

TABLE 4.—*Time elapsing in civil cases tried* [1]

Fiscal year	Number of cases tried	Median interval in months from filing to disposition		Median interval in months from issue to trial	
		Illinois (northern)	National median	Illinois (northern)	National median
1945	155	11.1	9.0	6.9	5.3
1946	160	12.1	8.9	6.2	5.0
1947	163	12.6	9.0	6.9	5.1
1948	157	11.1	9.9	7.4	5.8
1949	245	13.7	10.4	7.4	5.9
1950	231	16.0	11.2	10.0	6.7
1951	168	16.7	12.2	10.8	7.3
1952	251	15.8	12.1	10.3	7.0
1953	301	14.8	12.4	10.5	7.4
1954	290	15.1	13.5	10.6	8.1
1955	293	20.3	14.6	12.7	9.1

[1] The median time interval in months is computed for the civil cases in which a trial was held, which were terminated during the year, excluding land condemnation, habeas corpus and forfeiture proceedings. No median interval is shown for the years 1956 through 1952 where less than 25 cases were terminated after trial. For the year 1953 and subsequent years, where there were less than 25 cases terminated after trial, a median is listed with an asterisk (on the basis of the number of cases terminated after trial for the last two years, provided there were 25 such cases for the two years.

TABLE 5.—*Cases commenced per judgeship in this district and in 86 districts, by nature of suit, fiscal year 1955*

	Illinois (northern)	86 districts
Civil cases:		
Total cases	261	212
United States cases	58	86
Private cases	203	126
United States cases:		
United States plaintiff	39	68
Land condemnation	1	3
Fair Labor Standards Act	2	2
Other enforcement suits	9	3
Food and Drug Act	6	5
Liquor laws		2
Other forfeitures and penalties	4	4
Negotiable instruments	6	25
Other contracts	6	16
Other United States plaintiff	6	8
United States defendant	18	17
Enjoin Federal agencies	3	3
Habeas corpus	6	4
Tort Claims Act	5	4
Tax suits	3	4
Other United States defendant	1	3
Private cases:		
Federal question	58	31
Copyright	3	1
Employers' Liability Act	12	6
Fair Labor Standards Act	1	1
Habeas corpus	12	3
Jones Act	6	9
Miller Act	1	1
Patent	9	3
Other Federal question	15	7
Diversity of citizenship	143	84
Insurance	11	14
Other contracts	39	15
Real property	2	3
Personal injury:		
Motor vehicle	52	32
Other	28	15
Other diversity	10	5
Admiralty	2	11
Criminal cases (less immigration)	72	104

TABLE 7.—*Civil cases pending per judgeship on June 30, 1955*

Nature of suit	Cases pending per judgeship	
	Illinois, (northern)	National average
Total civil cases	288	258
United States civil cases	52	89
Private civil cases	236	169
United States plaintiff	26	58
Land condemnation	1	13
Antitrust	1	
Other enforcement suits	7	8
Forfeitures and penalties	3	4
Negotiable instruments	2	13
Other contracts	6	13
Other United States plaintiff	6	7
United States defendant	26	31
Tort claims act	7	7
Tax suits	11	8
Other United States defendant	9	16
Federal question	64	47
Antitrust	5	2
Copyright	2	2
Federal employer's liability act	11	8
Jones Act	5	18
Patent	15	5
Other federal question	26	12
Diversity of citizenship	169	98
Insurance	13	10
Other contracts	42	20
Real property	1	2
Personal injury:		
Motor vehicle	64	34
Other	37	21
Other diversity	12	11
Admiralty	2	24

Age of civil cases pending on June 30, 1955

Jurisdiction	Total pending	Age of civil cases pending						
		Less than 6 months	6 months to 1 year	1 to 2 years	2 to 3 years	3 to 4 years	4 to 5 years	5 years and over
Total civil cases	2,304	790	510	563	234	110	52	45
United States civil	418	119	77	109	63	26	14	10
United States plaintiff	211	63	41	48	26	13	8	7
United States defendant	207	51	36	61	37	13	6	3
Private civil	1,886	671	433	454	171	84	38	35
Federal question	514	169	97	129	58	28	21	12
Diversity	1,353	501	326	322	109	55	17	23
Admiralty	19	1	10	3	4	1		

District of Massachusetts

Present number of judgeships, 5; date last judgeship created, 1954; number of regular places of holding court, 1.

	Massachusetts	National average
Court reporter days per judgeship, fiscal year 1955	144	137
Caseload per judgeship, fiscal year 1955 (from table X 9):		
Total civil	248	212
Private civil	168	126
Criminal (except immigration)	70	104
Median time intervals, cases terminated after trial, fiscal year 1955:		
Filing to disposition (months) (from table C 5)	20.0	14.6
Issue to trial (months) (from table C 6)	16.8	9.1
Cases pending per judgeship on June 30, 1955:		
All civil	381	258
Private civil	260	169
Average number of cases disposed of annually per judgeship, fiscal years 1954 and 1955:		
All civil	266	223
Private civil	168	127

THE DISTRICT OF MASSACHUSETTS

By the act of February 10, 1954, an additional district judgeship was created for Massachusetts, giving that jurisdiction a total of five judges. The present chief judge is the Honorable George C. Sweeney who is 60 years of age and has been on the bench since 1935. The other four judges, their ages, and dates of entry on duty are as follows: Ford, age 72, entered on duty in 1938; Wyzanski, age 49, entered on duty in 1942; McCarthy, age 69, entered on duty in 1949; and Aldrich, age 48, entered on duty in 1954. Court is held regularly only in the city of Boston.

The number of civil cases commenced in the district has exceeded 1,200 in every year but one since 1950, and the average for this period of 6 years has been about 1,350 cases, or over 300 per judgeship. However, with the provision for a fifth judge, the caseload in the last 2 years has been 237 and 248 cases, respectively, compared with national averages of 210 and 212 for each of the 2 years. The business of the district consists of a large number of admiralty cases, including a heavy load of Jones Act suits; an above average workload of diversity personal injury suits and Federal Tort Claims Act suits; an average share of Employers' Liability Act cases, patent suits and Government tax suits; and a sprinkling of copyright, trademark, and Miller Act litigation. Thus the caseload, although not excessively large in numbers alone, is heavily weighted with those types of actions which result in time-consuming and protracted litigation.

Not since 1951 has the court been able to terminate more civil cases in a year than were filed. The rise in civil cases pending from 1951 to 1953 was extremely rapid from 1,351 to 1,874. With the appointment of the new judge the court has been able to check this trend so that on June 30, 1955 the figure of civil cases pending stood at 1,907, but no headway has been made in reducing the backlog. All of this increase has been in the private civil category where the rise has been from 489 pending cases at the end of 1948 to 1,300 at the end of 1955. Per judgeship the figures are 381 total civil cases pending (121 United States civil and 260 private civil), or over 2½ times the postulated "ideal" number of 150 civil cases (50 United States civil and 100 private civil cases) which would enable the judges to reach trial in all cases within six months of filing.

From the time it takes to reach trial and to dispose of cases it is very evident that the congestion of the dockets is serious. In the fiscal year 1955 the median time interval from filing to disposition for civil cases terminated in which a trial had been begun was 20 months compared to a national median of 14.6 months and the interval from issue to trial for these cases was 16.8 months compared to the national median of 9.1 months. In the last year the pending criminal caseload has been reduced and at the same time civil terminations have almost kept pace with filings. There has been no apparent upward trend in the filing of cases in the last 3 years, so that the problem appears to be principally one of reducing the large arrearages.

The pending cases apparently cannot be reduced substantially if at all with the present number of judges, so that if an additional judgeship were provided, the excess pending caseload as of June 30, 1955 would be computed as follows:

	Total civil	United States Civil	Private civil
Cases pending June 30, 1955	1,907	607	1,300
Less ideal backlog for 6 judges	900	300	600
Excess backlog	1,007	307	700

Thus with the immediate addition of one judge, the excess backlog would still amount to about one thousand cases. Assuming the continued rate of present dispositions and no increase in filings, even with another judge, it would take over 3½ years to bring the pending civil cases to a point where there would be 150 pending per judgeship.

The district of Massachusetts does not operate a master calendar. Each judge handles his own calendar and plans his own schedule and as a result some of the judges are far behind while others are fairly current. Judge Wyzanski is of the opinion that no additional judges are needed, that any case may be reached for trial within 6 months before a majority of the judges of the court, and that there is more criticism of the court for trying to expedite cases than there is for delay. Nevertheless an additional judgeship seems fully justified at this time on a permanent basis to bring the dockets of the court to a current condition and to maintain them in that state.

District of Massachusetts

TABLE 1.—*Civil cases commenced and terminated, by fiscal year, and pending at the end of each year beginning with 1941*

TOTAL CIVIL CASES				PRIVATE CIVIL CASES			
Fiscal year	Commenced	Terminated	Pending June 30	Fiscal year	Commenced	Terminated	Pending June 30
1941	849	761	855	1941	331	358	400
1942	811	729	937	1942	372	355	417
1943	655	762	830	1943	194	323	288
1944	796	854	772	1944	204	220	272
1945	1,284	1,077	979	1945	280	220	332
1946	1,978	1,653	1,304	1946	320	287	365
1947	1,492	1,421	1,375	1947	460	326	499
1948	1,021	1,191	1,205	1948	515	525	489
1949	981	962	1,224	1949	463	406	546
1950	1,201	1,054	1,371	1950	490	393	643
1951	1,269	1,289	1,351	1951	568	500	711
1952	1,636	1,424	1,563	1952	736	583	864
1953	1,552	1,241	1,874	1953	844	589	1,119
1954	1,185	1,164	1,895	1954	856	732	1,243
1955	1,242	1,230	1,907	1955	841	784	1,300

TABLE 2.—*United States civil cases and criminal cases commenced and terminated, by fiscal year, and pending at the end of each year beginning with 1941*

UNITED STATES CIVIL CASES (United States a party) [Price and rent control cases are in parentheses [1]]				CRIMINAL CASES [Cases transferred are not included in "Commenced" and "Terminated" columns]			
Fiscal Year	Commenced	Terminated	Pending June 30	Fiscal Year	Commenced	Terminated	Pending June 30
1941	518	403	455	1941	334	332	185
1942	439	374	520	1942	321	314	192
1943	461 (50)	439	542	1943	388	364	216
1944	502 (184)	634	500	1944	484	481	219
1945	1,004 (599)	857	647	1945	514	334	399
1946	1,658 (1,298)	1,366	939	1946	231	469	161
1947	1,032 (608)	1,095	876	1947	202	290	79
1948	506 (148)	666	716	1948	243	249	87
1949	518 (160)	556	678	1949	193	223	60
1950	711 (325)	661	728	1950	238	241	76
1951	701 (379)	789	640	1951	332	236	168
1952	900 (493)	841	699	1952	248	352	71
1953	708 (272)	652	755	1953	208	155	137
1954	329	432	652	1954	311	251	202
1955	401	446	607	1955	363	389	164

[1] Price and rent control cases are separately listed from 1943 to 1953. In many of these years they constituted a large proportion of all civil cases commenced, although they required on the average a relatively small proportion of court time per case for disposition. They are included in the figure which they follow.

TABLE 3.—*Cases commenced per Judgeship*

Fiscal year	Number of judgeships	Total civil cases		Private civil cases		Criminal cases (less immigration)[1]	
		Massachusetts	National average [2]	Massachusetts	National average [2]	Massachusetts	National average [2]
1941	4	212	164	83	82	84	153
1942	4	203	168	93	77	80	161
1943	4	164	158	49	58	97	174
1944	4	199	169	51	56	121	184
1945	4	321	295	70	57	129	176
1946	4	495	321	80	70	58	142
1947	4	373	271	115	109	50	134
1948	4	255	205	129	117	61	123
1949	4	245	238	116	121	48	123
1950	4	300	222	123	113	59	116
1951	4	317	204	142	111	83	106
1952	4	409	236	184	126	62	112
1953	4	388	261	211	146	51	114
1954	5	237	210	171	127	61	103
1955	5	248	212	168	126	70	104

[1] Immigration cases have been eliminated from this table because they occur in volume in only 5 districts on the Mexican border and because the average judicial time per case for their disposition is small.
[2] This column includes 86 districts for 1949 and thereafter; 84 districts before 1949.

TABLE 4.—*Time elapsing in civil cases tried* [1]

Fiscal year	Number of cases tried	Median interval in months from filing to disposition		Median interval in months from issue to trial	
		Massachusetts	National median	Massachusetts	National median
1945	56	11.5	9.0	8.0	5.3
1946	86	10.7	8.9	7.6	5.0
1947	74	10.9	9.0	9.4	5.1
1948	148	11.7	9.9	7.8	5.8
1949	93	12.7	10.4	9.9	5.9
1950	107	17.0	11.2	12.5	6.7
1951	125	12.9	12.2	9.1	7.3
1952	141	12.3	12.1	9.4	7.0
1953	116	13.4	12.4	10.8	7.4
1954	117	14.5	13.5	11.8	8.1
1955	138	20.0	14.6	16.8	9.1

[1] The median time interval in months is computed for the civil cases in which a trial was held, which were terminated during the year, excluding land condemnation, habeas corpus and forfeiture proceedings. No median interval is shown for the years 1945 through 1952 where less than 25 cases were terminated after trial. For the year 1953 and subsequent years, where there were less than 25 cases terminated after trial, a median is listed with an asterisk on the basis of the number of cases terminated after trial for the last 2 years, provided there were 25 such cases for the 2 years.

TABLE 5.—*Cases commenced per judgeship in this district and in 86 districts, by nature of suit, fiscal year 1955*

	Massachusetts	86 districts
Civil cases:		
Total cases	248	212
United States cases	80	86
Private cases	168	126
United States cases:		
United States plaintiff	54	68
Land condemnation	3	3
Fair Labor Standards Act	4	2
Other enforcement suits	7	3
Food and Drug Act	6	5
Liquor laws		2
Other forfeitures and penalties	4	4
Negotiable instruments	18	25
Other contracts	11	16
Other United States plaintiff	2	8
United States defendant	26	17
Enjoin Federal agencies	4	3
Habeas corpus	3	4
Tort Claims Act	10	4
Tax suits	5	4
Other United States defendant	4	3
Private cases:		
Federal question	58	31
Copyright	3	1
Employers' Liability Act	8	6
Fair Labor Standards Act	1	1
Habeas corpus	3	3
Jones Act	23	9
Miller Act	3	1
Patent	4	3
Other Federal question	13	7
Diversity of citizenship	98	84
Insurance	2	14
Other contracts	24	15
Real property	1	3
Personal injury:		
Motor vehicle	48	32
Other	17	15
Other diversity	5	5
Admiralty	13	11
Criminal cases (less Immigration)	70	104

TABLE 6

Civil and Criminal Trials Commenced, by Fiscal Year

Fiscal year	Total Trials Commenced	Civil			Criminal		
		Total	Nonjury	Jury	Total	Nonjury	Jury
1951	106	106	62	44			
1952	121	114	47	67	7	2	5
1953	128	120	52	68	8	1	7
1954	164	128	51	77	36	13	23
1955	159	128	57	71	31	1	30

Civil and Criminal Trials Commenced Per Judgeship

Fiscal year	Number of Judgeships	Total Trials		Civil		Criminal	
		Massachusetts	National Average [1]	Massachusetts	National Average [1]	Massachusetts	National average [1]
1951	4	27	39	27	28		11
1952	4	30	40	29	27	2	13
1953	4	32	44	30	29	2	15
1954	5	33	40	26	25	7	15
1955	5	32	41	26	26	6	15

[1] This column includes 86 districts.

TABLE 7.—*Civil cases pending per judgeship on June 30, 1955*

Nature of Suit	Cases pending per judgeship	
	Massachusetts	National average
Total civil cases	381	256
United States civil cases	121	89
Private civil cases	260	169
United States Plaintiff	67	58
Land condemnation	8	13
Antitrust		
Other enforcement suits	14	8
Forfeitures and penalties	3	4
Negotiable instruments	27	13
Other contracts	10	13
Other United States Plaintiff	4	7
United States Defendant	55	31
Tort Claims Act	21	7
Tax suits	12	8
Other United States Defendant	22	16
Federal question	93	47
Antitrust	5	2
Copyright	2	2
Federal Employee's Liability Act	12	8
Jones Act	47	18
Patent	6	5
Other Federal question	21	12
Diversity of citizenship	145	98
Insurance	4	10
Other contracts	35	20
Real property	1	2
Personal injury (motor vehicle)	68	34
Personal injury (other)	27	21
Other diversity	11	11
Admiralty	22	24

Age of civil cases pending on June 30, 1955

Jurisdiction	Total pending	Age of civil cases pending						
		Less than 6 months	6 months to 1 year	1 to 2 years	2 to 3 years	3 to 4 years	4 to 5 years	5 years and over
Total civil cases	1,907	582	380	497	275	111	31	31
United States Civil	607	193	78	132	128	44	5	17
United States plaintiff	333	140	37	40	76	21	2	17
United States defendant	274	53	41	92	62	23	3	.....
Private civil	1,300	389	302	365	137	67	26	14
Federal question	464	132	102	135	66	23	5	1
Diversity	727	232	177	202	56	35	17	8
Admiralty	109	25	23	28	15	9	4	5

APPENDIX 26

EASTERN DISTRICT OF TENNESSEE

Present Number of Judgeships, 2; Date Last Judgeship Created, 1938; Number of Regular Places of Holding Court, 4.

	Tennessee (eastern)	National average
Court reporter days per judgeship, fiscal year 1955	189	137
Caseload per judgeship, fiscal year 1955 (from table X 9):		
Total civil	334	212
Private civil	223	126
Criminal (except immigration)	199	104
Median time intervals, cases terminated after trial, fiscal year 1955:		
Filing to disposition (months) (from table C 5)	10.4	14.6
Issue to trial (months) (from table C 6)	7.5	9.1
Cases pending per judgeship on June 30, 1955:		
All civil	261	258
Private civil	186	169
Average number of cases disposed of annually per judgeship, fiscal years 1954 and 1955:		
All civil	284	223
Private civil	164	127

THE EASTERN DISTRICT OF TENNESSEE

The caseload in the district is too heavy for two judges. The attached report by Mr. Spaniol gives an accurate account of the business of this district. Judge Darr at Chattanooga is 69 years old, and Judge Taylor, at Knoxville is 56.

The civil and criminal caseloads are somewhat higher in the northern and northeastern divisions than in the remainder of the district. The following table of pending cases shows that along with the great increase in cases filed there has also been a considerable increase in the pending load:

Cases Pending

Fiscal year	All civil	United States civil	Private civil
1948	394	191	203
1949	390	191	199
1950	377	144	233
1951	376	167	209
1952	398	202	196
1953	464	235	229
1954	449	159	290
1955	521	150	371

In spite of this rather heavy pending load, the district is in good condition. The median from filing to disposition last year was 10.4 months and from issue to trial it was 7.5 months.

To relieve the judges who are being hard pressed and to bring the district to a point where cases can be tried in 6 months, within some reserve judgepower to cope with a further future increase in private cases, another judgeship in the district is needed.

Eastern District of Tennessee

Table 1.—*Civil cases commenced and terminated, by fiscal year, and pending at the end of each year beginning with 1941*

TOTAL CIVIL CASES				PRIVATE CIVIL CASES			
Fiscal year	Commenced	Terminated	Pending June 30	Fiscal year	Commenced	Terminated	Pending June 30
1941	275	274	234	1941	103	97	82
1942	413	298	349	1942	93	97	80
1943	280	374	255	1943	69	85	64
1944	181	190	246	1944	73	80	57
1945	262	204	304	1945	96	59	94
1946	399	315	388	1946	167	98	163
1947	517	427	478	1947	318	199	282
1948	350	434	394	1948	204	283	203
1949	371	375	390	1949	196	200	199
1950	433	446	377	1950	251	217	233
1951	466	467	376	1951	238	262	209
1952	586	564	398	1952	256	269	196
1953	538	472	464	1953	289	256	229
1954	523	538	449	1954	353	292	290
1955	668	596	521	1955	446	365	371

Table 2.—*United States civil cases and criminal cases commenced and terminated, by fiscal year, and pending at the end of each year beginning with 1941*

UNITED STATES CIVIL CASES (United States a party) [Price and rent control cases are in parentheses [1]]				CRIMINAL CASES [Cases transferred are not included in "Commenced" and "Terminated" columns]			
Fiscal year	Commenced	Terminated	Pending June 30	Fiscal year	Commenced	Terminated	Pending June 30
1941	172	177	152	1941	549	549	137
1942	318	201	269	1942	597	598	136
1943	211 (7)	289	191	1943	616	613	139
1944	108 (13)	110	189	1944	554	590	103
1945	166 (56)	145	210	1945	616	564	155
1946	232 (148)	217	225	1946	361	426	90
1947	199 (112)	228	196	1947	372	350	106
1948	146 (16)	151	191	1948	370	335	137
1949	175 (22)	175	191	1949	378	404	108
1950	182 (4)	229	144	1950	465	466	102
1951	228 (..)	205	167	1951	350	375	84
1952	330 (9)	295	202	1952	399	372	108
1953	249 (6)	216	235	1953	400	417	82
1954	170	246	159	1954	448	438	92
1955	222	231	150	1955	397	412	72

[1] Price and rent control cases are separately listed from 1943 to 1953. In many of these years they constituted a large proportion of all civil cases commenced, although they required on the average a relatively small proportion of court time per case for disposition. They are included in the figure which they follow.

TABLE 3.—*Cases commenced per judgeship*

Fiscal year	Number of judgeships	Total civil cases		Private civil cases		Criminal cases (less immigration)[1]	
		Tennessee (eastern)	National average [2]	Tennessee (eastern)	National average [2]	Tennessee (eastern)	National average [2]
1941	2	138	164	52	82	275	133
1942	2	207	168	48	77	299	161
1943	2	140	158	35	58	308	174
1944	2	91	169	37	56	277	184
1945	2	131	295	48	57	308	176
1946	2	200	321	84	70	181	142
1947	2	259	271	159	109	186	134
1948	2	175	205	102	117	185	123
1949	2	186	238	98	121	189	123
1950	2	217	222	126	113	233	116
1951	2	233	204	119	111	175	106
1952	2	293	236	128	126	200	112
1953	2	269	261	145	146	200	114
1954	2	262	210	177	127	224	103
1955	2	334	212	223	126	199	104

[1] Immigration cases have been eliminated from this table because they occur in volume in only 5 districts on the Mexican border and because the average judicial time per case for their disposition is small.
[2] This column includes 86 districts for 1949 and thereafter; 84 districts before 1949.

Table 4.—Time elapsing in civil cases tried [1]

Fiscal year	Number of cases tried	Median interval in months from filing to disposition		Median interval in months from issue to trial	
		Tennessee (eastern)	National median	Tennessee (eastern)	National median
1945	12	----------	9.0	----------	5.3
1946	25	13.8	8.9	5.1	5.0
1947	37	11.3	9.0	5.3	5.1
1948	53	13.4	9.9	8.4	5.8
1949	56	19.0	10.4	7.7	5.9
1950	53	14.5	11.2	9.0	6.7
1951	62	13.4	12.2	8.0	7.3
1952	52	12.6	12.1	7.6	7.0
1953	64	11.6	12.4	8.1	7.4
1954	74	8.3	13.5	6.2	8.1
1955	78	10.4	14.6	7.5	9.1

[1] The median time interval in months is computed for the civil cases in which a trail was held, which were terminated during the year, excluding land condemnation, habeas corpus and forfeiture proceedings. No median interval is shown for the years 1945 through 1952 where less than 25 cases were terminated after trial. For the year 1953 and subsequent years, where there were less than 25 cases terminated after trial, a median is listed with an asterisk on the basis of the number of cases terminated after trial for the last 2 years, provided there were 25 such cases for the 2 years.

TABLE 5.—*Cases commenced per judgeship in this district and in 86 districts, by nature of suit, fiscal year 1955*

	Tennessee (eastern)	86 districts
Civil cases:		
Total cases	334	212
United States cases	111	86
Private cases	223	126
United States cases:		
United States plaintiff	162	68
Land condemnation	23	3
Fair Labor Standards Act	3	2
Other enforcement suits	4	3
Food and Drug Act	3	5
Liquor laws	10	2
Other forfeitures and penalties	3	4
Negotiable instruments	9	25
Other contracts	13	16
Other United States plaintiff	36	8
United States defendant	9	17
Enjoin Federal agencies	1	3
Habeas corpus		4
Tort Claims Act	3	4
Tax suits	3	4
Other United States defendant	2	3
Private cases:		
Federal question	15	31
Copyright		1
Employers' Liability Act	6	6
Fair Labor Standards Act	2	1
Habeas corpus	1	3
Jones Act		9
Miller Act		1
Patent	1	3
Other Federal question	7	7
Diversity of citizenship	208	84
Insurance	12	14
Other contracts	11	15
Real property	6	3
Personal injury:		
Motor vehicle	108	32
Other	15	15
Other diversity	8	5
Admiralty	1	11
Criminal cases (less immigration)	199	104

TABLE 6.—*Civil and criminal trials commenced, by fiscal year*

Fiscal year	Tota trials com-menced	Civil			Criminal		
		Total	Nonjury	Jury	Total	Nonjury	Jury
1951	120	72	38	34	48	4	44
1952	109	67	32	35	42	3	39
1953	140	69	28	41	71	6	65
1954	162	89	50	39	73	4	69
1955	162	82	38	44	80	10	70

Civil and criminal trials commenced per judgeship

Fiscal year	Number of judgeships	Total Trials		Civil		Criminal	
		Tennessee (eastern)	National average [1]	Tennessee (eastern)	National average [1]	Tennessee (eastern)	National average [1]
1951	2	60	39	36	28	24	11
1952	2	55	40	34	27	21	13
1953	2	70	44	35	29	36	15
1954	2	81	40	45	25	37	15
1955	2	81	41	41	26	40	15

[1] This column includes 86 districts.

TABLE 7.—*Civil cases pending per judgeship on June 30, 1955*

Nature of suit	Cases pending per judgeship	
	Tennessee (eastern)	National average
Total civil cases	261	258
United States civil cases	75	89
Private civil cases	186	169
United States plaintiff	63	58
Land condemnation	37	13
Antitrust	1	
Other enforcement suits	3	8
Forfeitures and penalties	8	4
Negotiable instruments	2	13
Other contracts	5	13
Other United States plaintiff	9	7
United States defendant	12	31
Tort Claims Act	5	7
Tax suits	4	8
Other United States defendant	4	16
Federal question	13	47
Antitrust	1	2
Copyright		2
Federal Employee's Liability Act	5	8
Jones Act		16
Patent	2	5
Other Federal question	6	12
Diversity of citizenship	173	98
Insurance	12	10
Other contracts	12	20
Real property	2	2
Personal injury (motor vehicle)	93	34
Personal injury (other)	42	21
Other diversity	13	11
Admiralty	1	24

Age of civil cases pending on June 30, 1955

Jurisdiction	Total pending	Age of civil cases pending						
		Less than 6 months	6 months to 1 year	1 to 2 years	2 to 3 years	3 to 4 years	4 to 5 years	5 years and over
Total civil cases	521	267	131	81	26	9	1	6
United States civil	150	70	26	30	16	4	----	4
United States plaintiff	126	62	21	20	15	4	----	4
United States defendant	24	8	5	10	1	----	----	----
Private civil	371	197	105	51	10	5	1	2
Federal question	25	11	6	6	1	----	----	1
Diversity	345	185	99	45	9	5	1	1
Admiralty	1	1	----	----	----	----	----	----

THE JUDICIAL BUSINESS OF THE UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF TENNESSEE

There are four statutory divisions in the eastern district of Tennessee. Court for the northern division is held at Knoxville, for the northeastern division at Greeneville, for the southern division at Chattanooga, and for the Winchester division at Winchester. Chief Judge Leslie R. Darr presides over the southern and Winchester divisions and has his headquarters at Chattanooga and Judge Robert L. Taylor, who presides over the northern and northeastern divisions, has his headquarters at Knoxville.

Civil cases commenced in the eastern district of Tennessee, in the northern and northeastern divisions, and in the southern and Winchester divisions, beginning with 1946 are as follows:

Fiscal year	Entire district	Northern and northeastern divisions	Southern and Winchester divisions
1946	399	207	192
1947	517	243	274
1948	350	169	181
1949	371	245	126
1950	433	249	184
1951	466	275	191
1952	586	393	193
1953	538	329	209
1954	523	282	241
1955	668	398	270

Although there is a greater volume of civil business in the two divisions in the northern part of the district, the difference is principally in the number of suits commenced by the United States to collect rent in public housing developments, which are not time consuming compared to other types of cases. The above table also shows that the civil business of the district as a whole has increased substantially in the last four years.

In order to make a quick comparison of the caseloads of the two judges in the eastern district of Tennessee with the caseloads of all district judges in the sixth circuit and all judges in the 86 districts having purely federal jurisdiction, the following table is presented:

Caseload per judgeship, civil cases

Fiscal year	Tennessee (eastern)			All districts in 6th circuit	National average, 86 districts
	Northern and northeastern divisions	Southern and Winchester divisions	Entire district		
1946	207	192	200	255	321
1947	243	274	259	237	271
1948	169	181	175	169	205
1949	245	126	186	217	238
1950	249	184	217	262	222
1951	275	191	233	229	204
1952	393	193	293	274	236
1953	329	209	269	244	261
1954	282	241	262	176	210
1955	398	270	334	185	212

In the fiscal year 1955 the civil caseload per judgeship in the eastern district of Tennessee was 334 compared with an average of 185 for the district judges in the sixth circuit as a whole and 212 civil cases per judgeship in all 86 districts. Of great importance is the fact that over 60 percent of the civil caseload in this district in 1955 consisted of diversity of citizenship cases which on the whole are far more time consuming than other types of cases. The following table shows the number of these suits commenced in the district in the last five years.

Caseload per judgeship, diversity of citizenship cases

Fiscal year	Tennessee (eastern)		Sixth circuit	86 districts
	Northern and northeastern divisions	Southern and Winchester divisions		
1950	109	123	71	66
1951	101	126	74	67
1952	126	96	87	75
1953	119	140	86	86
1954	165	154	76	81
1955	218	197	80	84

Personal injury negligence cases comprise the bulk of the diversity suits. In 1955, when the northern and northeastern divisions had 218 diversity cases filed, 102 involved motor vehicle torts, and 80, other kinds of personal injury torts. For the southern and Winchester divisions, where 197 diversity cases were filed during the same period, 113 were motor vehicle personal injury suits and 50, other types of personal injury torts.

The following is a tabulation of the number of trials in this district for the last 5 years. The trial load is far heavier than average.

Trials commenced in the eastern district of Tennessee, fiscal years 1951–55.

Fiscal year	Total trials commenced	Civil trials commenced	Criminal trials commenced
1951	120	72	48
1952	109	67	52
1953	140	69	71
1954	162	89	73
1955	163	83	80

Despite the heavy caseloads in this district in the last few years the time intervals for the disposition of cases have been below the average. The median

time interval from filing to disposition for civil cases terminated in 1955 in which a trial was held was 10.4 months compared with the national median of 14.6 months and the interval from issue to trial was 7.5 months compared with a median of 9.1 months in the 86 districts. However, the 1955 intervals in the eastern district of Tennessee are longer than those for 1954. The details are given in table 3 attached.

The criminal caseload for the 2 judges of the district has varied considerably during the last 6 years. It is shown in the following table, along with the criminal caseload per judgeship for the Sixth Circuit and for the 86 districts. The number of criminal cases per judge has been consistently higher than the national average.

Caseload per judgeship criminal cases

Fiscal Year	Tennessee (eastern)		6th circuit	86 districts (immigration excluded)
	Northern and Northeastern divisions	Southern and Winchester divisions		
1950	242	223	170	116
1951	194	156	156	106
1952	211	188	159	112
1953	232	168	161	114
1954	219	229	130	103
1955	233	164	140	104

The criminal docket is current throughout the eastern district.

Complete statistical tables showing the civil and criminal business of this district for the last 15 years are attached.

Respectfully submitted,

JOSEPH F. SPANIEL, Jr.
Attorney, Division of Procedural Studies and Statistics
Administrative Office of the United States Courts.

SEPTEMBER 15, 1955.

APPENDIX 27

ADMINISTRATIVE OFFICE OF THE UNITED STATES COURTS,
Washington, D. C., April 12, 1955.

Hon. HARLEY M. KILGORE,
Chairman, Committee on the Judiciary,
United States Senate, Washington, D. C.

DEAR SENATOR KILGORE: The Judicial Conference at its meeting on March 24 and 25, 1955, took action as follows in relation to circuit judgeships and district judgeships:

Upon the recommendation of the Judicial Council of the Ninth Circuit reported by Chief Judge Denman of that circuit, it withdrew the previous recommendation for the creation of 3 additional circuit judgeships for the ninth circuit, 2 permanent and 1 temporary. The Judicial Conference of the United States accordingly would recommend the omission in the pending bill (S. 1256) which you introduced, of the provision for these judgeships. The Judicial Conference of the United States renewed its approval of all of the additional district judgeships provided for in that bill.

The Judicial Conference approved the following additional judgeships not provided for in the pending bill (S. 1256):

One additional circuit judgeship for the second circuit, raising the number of circuit judgeships for that circuit from 6 to 7.

One additional district judgeship for the district of Connecticut, raising the number of district judges for that district from 2 to 3 as provided for in a pending bill (S. 1470).

One additional district judgeship for the eastern district of New York, raising the number of district judges for that district from 6 to 7. (This judgeship had been approved by a mail vote of the Judicial Conference shortly prior to the recent meeting.)

One additional district judgeship on a temporary basis for the middle district of Pennsylvania;

One additional district judgeship for the northern district of Texas, raising the number of judges for that district from 3 to 4.

One additional district judgeship for the eastern district of Michigan, raising the number of judges for that district from 6 to 7.

One additional district judgeship for the district of Arizona, raising the number of judges for that district from 2 to 3, as provided for in a pending bill (S. 208).

One additional district judgeship for the district of Colorado, raising the number of judges for that district from 2 to 3, as provided for in a pending bill (S. 1634).

Also at its recent meeting the Judicial Conference disapproved the creation of a new district to be known as the southern district of California, comprising San Diego and Imperial Counties, provided for in a pending bill (S. 927), and disapproved the creation of a new division of the northern district of California to be known as the eastern division, comprising Alameda and Contra Costa Counties, and the holding of terms of court at the county seat of Alameda County which is Oakland, as provided for in a pending bill (S. 864).

The Judicial Conference reaffirmed its prior recommendation that a provision of section 371 of title 28 of the United States Code repealed by omission in the amendment of section 371 by Public Law 294 of the 83d Congress, approved February 10, 1954 (68 Stat. 12), which while it was in effect, permitted the President to appoint an additional judge when a disabled judge eligible to retire failed to do so and the President found that such an appointment was necessary for the efficient dispatch of business, be amended in the form previously recommended by the Judicial Conference and reenacted. The recommendation is that section 372 of title 28 of the United States Code as amended, be further amended by inserting at the end thereof an additional provision reading as follows:

"Whenever any judge of the United States appointed to hold office during good behavior who is eligible to retire under this section does not do so and a certificate of his disability signed by a majority of the members of the Judicial Council of his circuit in the case of a circuit or district judge, or by the Chief Justice of the United States in the case of the chief judge of the Court of Claims, Court of Customs and Patent Appeals, or Customs Court, or by the chief judge of his court in the case of a judge of the Court of Claims, Court of Customs and Patent Appeals, or Customs Court, is presented to the President and the President finds that such judge is unable to discharge efficiently all the duties of his office by reason of permanent mental or physical disability and that the appointment of an additional judge is necessary for the efficient dispatch of business, the President may make such appointment by and with the advice and consent of the Senate. Whenever any such additional judge is appointed, the vacancy subsequently caused by the death, resignation, or retirement of the disabled judge shall not be filled. Any judge whose disability causes the appointment of an additional judge shall, for purposes of precedence, service as chief judge, or temporary performance of the duties of that office, be treated as junior in commission to the other judges of the circuit, district, or court."

Full information and statistics concerning the courts affected by the pending bill (S. 1256) and the other courts for which additional judgeships have been recommended by the Judicial Conference as shown in this letter, are available and will be produced at any hearing on the proposed legislation before your committee.

With kind regards, I am,

Sincerely yours,

HENRY P. CHANDLER.

ADMINISTRATIVE OFFICE OF THE UNITED STATES COURTS,
Washington, D. C., January 5, 1956.

Hon. HARLEY M. KILGORE,
Chairman, Judiciary Committee,
United States Senate, Washington, D. C.

DEAR MR. CHAIRMAN: On March 2, 1955, you introduced in the Senate S. 1256 entitled "A bill to provide for the appointment of additional circuit and district judges" to carry out recommendations of the Judicial Conference of the United States. Since that date two meetings of the Judicial Conference have been held at which further consideration was given to the state of the business of the courts of appeals and district courts and their needs for additional judges. The first

of these meetings was a special session held March 24 and 25, 1955, and the second was the regular annual session held September 19 and 20, 1955. As a result of the consideration given at these meetings some of the recommendations for additional judges have been modified or withdrawn by the Conference and additional recommendations made. These changes are of course not reflected in S. 1256.

At its March session the Conference was informed that the Judicial Council of the Ninth Circuit was then of the opinion that the business of the Court of Appeals for the Ninth Circuit could be handled without the appointment of additional circuit judges. Consequently the Conference withdrew its previous recommendation for the creation of 2 additional permanent judgeships and 1 temporary judgeship for that circuit. The Conference recommended the creation of the following additional judgeships not theretofore proposed and these recommendations were reaffirmed at the September session:

One additional circuit judgeship for the second circuit; 1 additional district judgeship for the district of Connecticut; 1 additional district judgeship for the northern district of Texas; 1 additional district judgeship for the eastern district of Michigan; 1 additional district judgeship for the district of Colorado; 1 additional district judgeship for the eastern district of New York (confirmation of a mail vote taken earlier).

The Conference also at the March session recommended 1 additional district judgeship for the middle district of Pennsylvania on a temporary basis and 1 additional district judgeship for the district of Arizona, but these recommendations were withdrawn at the September session.

At the September session the Judicial Conference recommended the following additional judgeships not theretofore recommended:

One additional district judgeship for the eastern district of Pennsylvania (making a total of 2 additional district judgeships recommended for this district); 1 additional district judgeship for the district of Maryland; 1 additional district judgeship for the western district of Texas.

There is enclosed for the consideration of your committee a proposed amendment to S. 1256 which would strike out all after the enacting clause and insert in lieu thereof the present recommendations of the Judicial Conference for additional judges. I hope that the recommendations of the Conference as embraced in this amendment may have the early consideration of your committee. Representatives of the Conference and of this office will be happy upon request to furnish you any additional information you may desire with regard to the recommendations.

With kind regards, I am,

Sincerely yours,

HENRY P. CHANDLER.

UNITED STATES DEPARTMENT OF JUSTICE,
OFFICE OF THE DEPUTY ATTORNEY GENERAL,
Washington, D. C., February 16, 1956.

Hon. HARLEY M. KILGORE,
Chairman, Committee on the Judiciary,
United States Senate, Washington, D. C.

DEAR SENATOR: At its September 1955 meeting the Judicial Conference of the United States made further recommendations with respect to the creation of additional judgeships. A complete list of the present judgeship recommendations of the Judicial Conference is as follows: One additional circuit judgeship for the second circuit; 1 additional district judgeship each for the northern district of California, Colorado, Connecticut, northern and southern districts of Iowa (to serve in both districts), Kansas, eastern district of Louisiana, Maryland, eastern district of Michigan, southern district of Mississippi, eastern district of New York, eastern, middle, and western districts of North Carolina (to serve in all 3 districts), northern district of Ohio, northern district of Texas, western district of Texas, and third division of the district of Alaska; 2 additional district judgeships for the eastern district of Pennsylvania, and 3 additional district judgeships for the southern district of New York.

It is noted that on January 12, 1956, you submitted an amendment in the nature of a substitute for your bill S. 1256 which would carry out the above recommendations of the Judicial Conference.

The Department of Justice heartily concurs in these recommendations of the Judicial Conference. The Department has been greatly disturbed by the continuing accumulation of pending cases and the consequent delays in disposing of matters in the Federal courts. The large backlog of cases is, to a considerable extent, due to the need for additional judicial manpower.

The Bureau of the Budget has advised that there is no objection to the submission of this report.

Sincerely,

WILLIAM P. ROGERS,
Deputy Attorney General.

O

Calendar No. 2680

84TH CONGRESS, 2d Session | SENATE | REPORT No. 2635

RECOGNITION OF ORGANIZATIONS OF POSTAL AND FEDERAL EMPLOYEES

JULY 18 (legislative day, JULY 16), 1956.—Ordered to be printed

Mr. JOHNSTON of South Carolina, from the Committee on Post Office and Civil Service, submitted the following

REPORT

[To accompany S. 3593]

The Committee on Post Office and Civil Service, to whom was referred the bill (S. 3593) to amend section 6 of the act of August 24, 1912, as amended, with respect to the recognition of organizations of postal and Federal employees, having considered the same report favorably thereon with amendments and recommend that the bill, as amended, do pass.

AMENDMENTS

The amendments are as follows:

(1) Page 2, line 15, strike out the words "rates of pay";

(2) Page 2, line 18, add the words:

> provided that nothing in this subsection shall nullify any provision of any contract, agreement, or regulation reached by mutual agreement between a department or agency and an employee organization except as may hereafter be agreed to by the parties thereto;

(3) Page 3, lines 3 to 15, strike out subsection "(e) (3)";

(4) Page 3, line 17, strike out the word "or" and insert a comma after the word "Investigation" and add the words:

> the Atomic Energy Commission, the Federal Deposit Insurance Corporation or the National Security Agency.

PURPOSE OF AMENDMENTS

The first amendment is designed to clarify the intent of the legislation, leaving the question of rates of pay to be determined by congressional action.

The second amendment is added to assure that nothing in the bill will nullify any provision of any existing contract, agreement, or regulation without the consent of the parties thereto.

The third amendment strikes from the bill a provision which the agency heads feel would empower the board of arbitration to remove an official and thus would conflict with established removal procedures. They argue that agency heads now have the authority to remove or otherwise discipline officials who do not observe laws or regulations. The committee is in general agreement with this view.

The final amendment excludes the Atomic Energy Commission, the Federal Deposit Insurance Corporation, or the National Security Agency from the provisions of the bill.

JUSTIFICATION

It is the purpose of this legislation to provide a sound personnel-management policy for the executive departments and agencies by amending the act of August 24, 1912, so as to provide statutory recognition of employee organizations and the rights of officers or representatives of such organizations to present grievances in behalf of their members without restraint, coercion, interference, intimidation, or reprisal. This legislation would give such officers and representatives an opportunity to confer with administrative officers on matters of policy affecting working conditions and adjustment of grievances.

The Committee on Post Office and Civil Service held extensive hearings on this legislation beginning on May 15 and ending on June 14. The committee heard a total of 82 witnesses, 79 of whom endorsed the legislation and 3 opposed it.

Your committee believes that present personnel policies of the Federal Government are out of step with the modern trend in successful private industry and that it is incompatible for a government which requires a private employer to recognize and deal with his employees to follow any other course when that government is itself the employer.

The bill S. 3593 simply provides that under regulations promulgated by the head of each department or agency, employee representatives may confer either with agency heads or their designated representatives on matters of policy affecting working conditions, safety, in-service training, labor,management cooperation, methods of adjusting grievances, transfers, appeals, granting of leave, promotions, demotions and reduction in force without intimidation, coercion, interference, or reprisal.

This legislation is in harmony with the recommendations of the Commission on Organization of the Executive Branch of the Government (Hoover Commission) as contained in a report to the 81st Congress (H. Doc. No. 63, February 10, 1949), which stated that—

> Federal employees while given some degree of protection against abuse, discrimination, and unjust treatment, are not provided a positive opportunity to participate in the formulation of policies and practices which affect their welfare.

The Commission recommended that—

> The heads of departments and agencies should be required to provide for the positive participation of employees in the formulation and improvement of the Federal personnel policies and practices.

A report of the Committee on Labor Relations of Governmental Employees, approved by the labor relations law section of the American Bar Association, in August of 1955 strongly supports the enactment of legislation of this character. In its report, the committee points out that—

> Government as an employer has failed in many instances to practice what it compels industry to do. Legislatures which deny to government agencies the use of some proper form of "collective bargaining" procedures so familiar in industry (at least in terms of "collective negotiation"), which attempt to restrict unduly the right of employees to organize and to petition the government for redress of their grievances, need to review the problem more realistically.

The report further stated that—

> The progress made in recent years by labor organizations, the development of a more responsible labor leadership, the benefits secured by organized labor, have brought public employees to a recognition of the advantages to them which might result from more effective organization and more aggressive negotiation with governmental agencies. A government which imposes upon other employers certain obligations in dealing with their employees may not in good faith refuse to deal with its own public servants on a reasonably similar favorable basis, modified, of course, to meet the exigencies of the public service. It should set the example for industry by being perhaps more considerate than the law requires of private enterprise.

It must be emphasized that nothing in the bill would grant to employees the right to strike or to engage in work stoppages or to take any other action prejudicial to the Government and in its report to the labor relations law section, the committee on labor relations of governmental employees stated that—

> Government which denies to its employees the right to strike against the people, no matter how just might be the grievances, owes to its public servants an obligation to provide working conditions and standards of management-employee relationships which would make unnecessary and unwarranted any need for such employees to resort to stoppage of public business. It is too idealistic to depend solely on a hoped for beneficent attitude of public administrators. Promises of well-meaning public officials imbued with a sense of high authority who resort to the pretense of alleged limitations on their powers to avoid dealing forthrightly with representatives of their subordinate employees only aggravate grievances.

The act of August 24, 1912, granted to postal employees the right to belong to organizations not imposing upon them the right to strike against the Federal Government. The bill, S. 3593, would further amend this act so as to provide machinery for handling grievances and afford employees an opportunity to present their views on matters in which they have a primary concern. As the largest single employer of labor, Government must accept modern employee relations standards. This necessarily involves giving the employee the right to consultation before standards are agreed upon since unilateral action on the part of departments and agencies which fails to give employee organizations the opportunity to present their views can only lead to further misunderstanding. The Government has no claim to a special status as an employer and may not reasonably expect employees to make sacrifices not required of employees in private industry. Your committee believes that the privileges extended to employees in private industry should be extended to the employees of the Federal Government to the extent compatible with the needs of the public service and a democratic administration of the public business.

The committee feels that there is an obligation on the part of the Congress to set up such machinery as may be necessary to assure civil service employees benefits that arise from sound personnel-management policies. The committee believes that Federal employees are entitled to treatment equal to the treatment accorded to employees of private industry.

While the departments and agencies which appeared before the committee or submitted statements on this legislation all stated that the legislation was unnecessary on the grounds that a sound program is already in existence, the employee representatives without exception stated the reverse to be true. The employee representatives' well documented statements cited case after case which, in our judgment, warrants the enactment of the bill S. 3593 and it is interesting to note that despite the claims of departments and agencies that the legislation herein proposed was unnecessary, that the Civil Service Commission over a year ago prepared a draft of a proposed Executive order on recognition of Federal employee organizations which would have accomplished many of the objectives of this legislation. From the Washington Star of July 2 we learn that shortly before our committee held hearings, the Civil Service Commission sent to the White House a proposed statement stating the President's policy to be that, "Federal employee unions had the right to be consulted on personnel problems and policies and that agency heads should deal with them on these matters and on grievances."

It appears that interest in this subject was not confined solely to the Civil Service Commission since the Secretary of Labor brought up the subject at a meeting of the Cabinet on October 28 of last year. It will thus be seen that while the Civil Service Commission expresses opposition to the bill, it has on two recent occasions by inference, at least, endorsed the principle and recognized the need for improvement in the personnel policies of the Federal Government. The United States Department of Labor, which has an understandable interest in this subject, did not present to the committee any objection to the enactment of this legislation which appears to be in harmony with the ideas of the Secretary.

Under date of April 25 the Post Office Department published regulations as a part of the Postal Manual, part 741 of which deals with employee organizations. While stating the right of employees to join organizations which have for their objective improvements in the conditions of labor of its members, which is guaranteed by the Lloyd-LaFollette Act (sec. 6, act of August 24, 1912) these regulations restrict the activities of employee organizations to an extent which if rigidly enforced would make it impossible for them to exist. Under these regulations, it is implied that petitions to the Congress may only be presented through "the official in charge of the installation."

Part 741.4 of these regulations provide that prior approval of the content of literature and the time, place, and method of circulation or posting will be required from the official in charge of the postal installation before such literature may be posted on bulletin boards. This section can only be interpreted as an attempt to exercise the right of censorship over employee organizations.

Part 741.5 of these regulations restrains employees when on duty from soliciting membership or collecting membership dues but does not restrict other solicitations for charitable and other activities. Since the Post Office Department permits postmasters to attend conventions without charge to their annual leave, and is not unduly critical of the activities of those who support the Department's program, it would appear that the Department is interested only in stifling those groups which are critical.

The bill S. 3593 is neither new nor revolutionary. It would do for the employees of the Federal Government what the National Labor Relations Act and other legislation has done for the employees of private industry. It would provide what industry has found to be a sound practice and one that has resulted not only in the highest employment ever attained but in the highest production with the least disturbances resulting from strikes, lockouts, and other work stoppages as well. This legislation only extends to the employees of the Federal Government, insofar as it is reasonable, the rights, benefits, and privileges that the Congress has said should be extended to employees of private industry.

AGENCY VIEWS

Following are views of the Civil Service Commission and the Post Office Department in regard to S. 3593:

UNITED STATES CIVIL SERVICE COMMISSION,
Washington, D. C., May 23, 1956.

Hon. OLIN D. JOHNSTON,
Chairman, Committee on Post Office and Civil Service,
United States Senate.

DEAR SENATOR JOHNSTON: This is in reply to your letter of April 61, 1956, requesting the views of the Civil Service Commission on S. 3593, a bill to amend section 6 of the act of August 24, 1912, as amended, with respect to the recognition of organizations of postal and Federal employees.

S. 3593 would recognize the right of employee representatives of national organizations to present grievances in behalf of their members. It would require the heads of departments and agencies to confer with

the officers or representatives of employee organizations on matters of personnel policies affecting working conditions, safety, in-service training, labor-management cooperation, methods of adjusting grievances, transfers, appeals, the granting of leave, promotions, demotions, rates of pay, and reductions in force. The bill further provides for the compulsory arbitration of disputes between agency officials and employee representatives arising from any disagreement on such personnel policies. Finally, the bill would establish another arbitration board to rule on alleged violations of the proposed law by Federal administrators.

The Commission opposes the enactment of the proposed legislation. Under existing agency policies, employees are afforded opportunities to make their views known to agency officials, and to present suggestions and recommendations on personnel matters of interest to their membership.

In any large organization there will always be isolated instances where established policies are not being fully adhered to by management officials. This is especially true in small offices which are far removed from the sources of policy determination. Keeping all levels of Federal administrators informed of agency policies and insuring compliance with such policies is a monumental task. Agency heads are most interested in learning of any instance where agency officials are not abiding by the spirit as well as the letter of established policies. Agency employee-management relations policies are subject to constant revision in order to improve their effectiveness.

By establishing a uniform employee-management relations policy, the bill fails to take into account the very wide differences in agency situations which over the years have given rise to differences in the mechanics of employee-management relationships in the various agencies. At the present time each agency head is responsible for the formulation of an employee-management relations policy tailored to meet the special needs of his agency and of the employee groups within the agency. These policies are subject to continuing review, and the necessary changes to meet new conditions are promptly initiated. The enactment of S. 3593 would establish inflexible procedures which could not readily be changed should they later prove unworkable or undesirable.

The following analysis of S. 3593 will serve to explain more fully our opposition to its enactment.

Subsection (e) (1) provides for the recognition of the right of officers and representatives of national organizations to present grievances in behalf of their members.

Current regulations issued by the Civil Service Commission in chapter E2 of the Federal Personnel Manual require agencies to establish orderly procedures for the effective handling of employee grievances. Individual agency grievances plans are subject to the review and final approval of the Civil Service Commission. Under these instructions agencies are advised that each employee should be granted the right to select a representative of his own choosing in presenting his grievance. No limitation, either implied or direct, is made in this regulation. An employee may consequently select a representative of a national organization, a representative of a local organization, or some other individual not connected with an employee organization. In contrast with the present policy, the language of

this proposed subsection might be construed to limit an employee's choice of representative to an officer or official of a national employee organization, thereby seriously limiting his present regulatory rights.

Subsection (e) (2) (A) requires that within 6 months of the effective date of the proposed law each agency, after having conferred with employee organization representatives, shall establish regulations requiring administrative officers to confer with employee representatives on personnel policy matters.

This provision would require agency officials to confer with officers or representatives of any employee organization having members in their agency. As the bill is presently written the term "employee organization" is not defined and would be open to misinterpretation. We are certain that it was the intent of the drafters of this bill to require agency officials to confer only with those employee organizations which have as their primary objective the betterment of the employment conditions of their membership.

However, the language of this provision could be construed to extend the coverage of the proposed law to fraternal associations and veterans organizations as well as labor unions. Your committee will readily appreciate the almost insurmountable difficulties an administrator would face in trying to formulate personnel policies which would not be in conflict with the aims and objectives of any of these groups. In addition, the language of the bill might require agency officials to confer with employee groups which discriminate against certain employees on the basis of race, religion, or national origin.

The language of this provision would appear to make it mandatory for the agency to confer with representatives of each organization, even though in some instances the complications of such a procedure might outweigh its advantages. Some agencies have a large number of employee organizations, many of which represent only a very small percentage of the agency employees. In agencies having large numbers of unorganized employees, management would have no assurance that personnel policies agreed upon by organized groups would have the support of the majority of the employees in the agency.

On the other hand, the Tennessee Valley Authority and Bonneville Power Administration recognize and consult with only those organizations which have been designated by a majority of the employees as their representatives. The enactment of this bill would make such arrangements illegal, despite their acceptance by management and employee groups, because of the right of any employee organization to insist that Government officials confer with them. Because of these complications, the Commission believes that each agency should be free to determine the most effective method of consulting with its employees.

This proposed provision would force agency officials to confer with employee representatives on any of the personnel matters listed in the subsection, despite the fact that this list includes many areas over which agency officials have only partial jurisdiction. In addition, the areas properly covered by employee-management consultations are broad and constantly increasing, so that they cannot be completely covered in legislation of this type. A question may be raised as to the requirement of agency officials to confer with employee representatives on matters not specifically covered by the legislation.

This subsection also provides that agencies will recognize the right of employee representatives to engage in "any lawful activity."

However, the bill does not define the term "lawful activity" nor does it state who will be responsible for determining whether an action on the part of an employee group is lawful.

Subsection (e) (2) (B) provides for the compulsory arbitration of all disputes between agencies and employee organizations arising from disagreements on personnel policies.

Compulsory arbitration could, in effect, defeat the purposes of joint consultation between management and employee representatives. If such conferences are to be fruitful there must be a genuine spirit of cooperation and a willingness to compromise on important issues. Compulsory arbitration might lead to a refusal of one party or the other to seek a mutually satisfactory solution to a disagreement in the hope that a decision more favorable to it could be obtained from the arbitration board.

In agencies having numerous employee organizations the question would arise as to which organization truly represented the views of the employees. This would be especially true should one organization disagree on a personnel policy decision supported by other employee groups. There is nothing in the proposed law which would prevent an employee group from demanding that even the most trivial disagreements be submitted to arbitration.

As we pointed out earlier, the bill would require agency officials to confer with employee representatives on some personnel matters not completely under their jurisidiction. We fail to see how an arbitration board could reach a final and binding decision in the even of a dispute between an agency and an employee organization concerning rates of pay for salaried employees, since Congress, not the agency, determines these salaries.

The enactment of this provision would also conflict with present law. For example, under the Veterans Preference Act a veteran may appeal his removal, demotion, or suspension to the Civil Service Commission. The law requires that the Civil Service Commission ruling be final and conclusive. It is conceivable that a veteran could elect to appeal to both the arbitration board and the Civil Service Commission. In the event these two bodies rendered opposite decisions, the finding of the arbitration board, being authorized by a later statute, would probably be binding.

Finally, compulsory arbitration would, in effect, place the final determination of personnel policy decisions in the hands of the arbitration board rather than in the responsible agency official. Although the Civil Service Commission exercises some measure of control over the direction of agency personnel programs, it would have no control over the decisions rendered by the arbitration board. The board, therefore, would be in a position to establish precedents contrary to the objectives of personnel programs developed and supported by the Civil Service Commission, and would thus become a policymaking body competing with the Commission for direction of the Government personnel program.

Subsection (e) (3) permits charges to be brought against administrative officials for alleged violations of the proposed law. Such charges would be referred to an impartial board of arbitration whose findings would be final and conclusive. If the board found an agency official to be in violation of the provisions of the proposed law, agency heads would be required to casue the suspension, demotion, or removal of the guilty official.

This provision would indirectly bestow upon the board of arbitration the power to remove an official and thus would conflict with all established removal procedures. Agency heads now have the authority to remove or otherwise discipline officials who do not observe laws or regulations. We do not believe that the board should be interposed between the agency head and the exercise of his administrative responsibilities.

The establishment of this additional arbitration board could lead to duplication and confusion in attempting to settle disputes between agencies and employee groups. Disagreement concerning personnel policies may also involve possible violations of the proposed law. In such cases employee groups could refer the question to both boards of arbitration. It is difficult under the provisions of the proposed bill to determine which of the two boards would have jurisdiction over such cases.

Enactment of this legislation would effectively remove from agency heads the right to the final determination of major personnel policies and place such responsibility in an arbitrator who may be partially or totally unfamiliar with the overall program of the agency. This step should not be taken without a realization that it will have an important effect on the operation of agency programs. Personnel planning cannot be entirely divorced from other management decisions.

For these reasons we do not believe that S. 3593 embodies the features essential for an effective employee-management relations program for the executive branch. We therefore recommend against its enactment.

The Bureau of the Budget has advised us that there is no objection to the submission of this report to your committee.

By direction of the Commission:

Sincerely yours,

PHILIP YOUNG, *Chairman.*

OFFICE OF THE POSTMASTER GENERAL,
Washington, D. C., May 23, 1956.

Hon. OLIN D. JOHNSTON,
Chairman, Committee on Post Office and Civil Service,
United States Senate.

DEAR MR. CHAIRMAN: Reference is made to your request for report on S. 3593, a bill to amend section 6 of the act of August 24, 1912, as amended, with respect to the recognition of organizations of postal and Federal employees.

This legislation would amend section 652 of title 5, United States Code, by the addition of a new subsection thereto under which regional or local officers of national employee organizations "representing employees of a department or agency or subdivision of such department or agency" would present grievances on behalf of their members "without restraint, coercion, interference, intimidation, or reprisal."

Within 6 months from the enactment of the bill the heads of the departments or agencies would be required, after receipt of expression of views of the officers and representatives of the employee organizations, to promulgate regulations to specify that administrative officers of the departments or agencies confer with the officers or representa-

tives of the employee organizations, when requested, "on matters of policy affecting working conditions, safety, in-service training, labor-management cooperation, methods of adjusting grievances, transfers, appeals, granting of leave, promotions, demotions, rates of pay, and reduction in force." The officers or representatives of the employee organizations would have the right to "carry on any lawful activity, without intimidation, coercion, interference, or reprisal."

Two boards of arbitration would be established by this legislation.

The board of arbitration headed up by a representative appointed by the Secretary of Labor, one representative of the department or agency, and one representative of the employee organization is to handle "disputes resulting from disagreement between employee organizations and departments or agencies on the policies enumerated in subsection (e) (2) (A)" of this bill. The findings of this board of arbitration "shall be final and conclusive."

The board of arbitration headed up by the member designated by the Civil Service Commission, one member selected by the head of the department or agency, and one member selected by the organization would handle "charges involving a violation" of the new subsection which would be added to section 652 of title 5, United States Code, by this measure. The findings of this board of arbitration also would be final and conclusive as to the fact of violation, and "the head of the department or agency involved shall take such action as may be necessary to cause the suspension, demotion, or removal of any administrative official found by the board of arbitration to have violated this subsection."

It is further provided that the subsection would not apply to the Central Intelligence Agency or to the Federal Bureau of Investigation.

The present instructions of the Department provide an orderly procedure for any employee to present a grievance covering any situation. An employee, if he feels the decision reached by lesser officials is not equitable or fair, can eventually appeal the matter to the Postmaster General for final decision. The employee is not required to be a member of any employee organization, and has the right to be represented by a committee of employees he selects. He makes these presentations without restraint, coercion, interference, intimidation, or reprisal.

National officers of employee organizations are provided opportunities of conferring with administrative officers on all matters of policy affecting employees. Local officers of employee organizations are given a hearing by the postmaster or other administrative official at the local level at any time such a request is made. Free discussion of local problems is encouraged.

The right of officers or representatives to solicit membership, collect fees or dues, or to carry on any other lawful activity is not questioned as long as such actions do not interfere with the normal operation of the postal service.

This legislation provides for representation of members of employee organizations only, and could require all employees to join an organization in order to obtain the same consideration and treatment in dealings with administrative officials.

This Department believes that the circumstances covered by this legislation are adequately handled at this time and that such legislation is not necessary. The language in the last sentence of (e) (2) on page 2 of the legislation could lead to the solicitation of membership,

collection of dues and fees and other employee organization activities during official work hours. This could interfere with the official duties of the employees and with the proper operation of the postal service.

The law presently recognizes the right of employees to become members of employee organizations, and it provides necessary protection to such employees incident to legitimate activities therein (5 U. S. C. 652). During the many years this law has been in operation the Department's relationship with employee organizations has on the whole been amicable. The Department and its representatives are always willing to discuss problems in which responsible employee organizations have an interest at any time the representatives request such a discussion. Because of this it is my opinion that this legislation is superfluous and its enactment would serve no useful purpose.

The establishment of two boards of arbitration would be unworkable. As written, the legislation would permit any representative of an employee organization to appeal to either or both boards for a hearing when he did not feel adequate attention had been paid to his personal demands by any administrative official of the Department. Such a hearing would delay a decision and, being far removed from the cause, would constitute a purely subjective discussion which could be prolonged indefinitely without reaching satisfactory conclusions. Furthermore, the establishment of two separate boards of arbitration could result in conflicting decisions with resultant confusion. Under present conditions if an employee organization presents evidence to the Postmaster General or his duly designated representative that any administrative official of the Department is not cooperative remedial action is initiated. There is no evidence that this system is not fully satisfying the needs of the Department and the employee organizations.

Furthermore, this legislation would vest both boards of arbitration with jurisdiction over disputes over rates of pay, in addition to the other policies enumerated in the bill. Since the Congress, not the Department, controls wages, it is not clear what purpose the boards of arbitration could serve, if the Department and unions should disagree on wage matters.

Section 202 of the Postal Field Service Compensation Act of 1955 (69 Stat. 89; 39 U. S. C., sec. 962), grants postal employees the right to appeal directly to the Civil Service Commission for review of any action of the Postmaster General in classifying positions under that act. It is not clear whether the procedures authorized by this legislation would supersede the benefits granted by section 202 of the Postal Field Service Compensation Act of 1955, or whether they would be in addition to the benefits of section 202. In any event, it is the view of this Department that the rights of appeal granted by section 202 of the Postal Field Service Compensation Act of 1955, together with the present grievance procedures of this Department provide adequate safeguards for employees of this Department.

In connection with this legislation, it is believed to be appropriate to invite the attention of the committee to remarks made in 1937 by President Franklin D. Roosevelt in a letter to Mr. Luther Steward, president of the National Federation of Federal Employees. These statements were repeated at page 43 of the hearings conducted in the 82d Congress by the House Committee on Post Office and Civil Service with respect to H. R. 554 and H. R. 571, bills which were similar to the present legislation, and are as follows:

"The desire of Government employees for fair and adequate pay, reasonable hours of work, safe and suitable working conditions, development of opportunities for advancement, facilities for fair and impartial consideration and review of grievances, and other objectives of a proper employee relations policy, is basically no different from that of employees in private industry. Organization on their part to present their views on such matters is both natural and logical, but meticulous attention should be paid to the special relationships and obligations of public servants to the public itself and to the Government.

"All Government employees should realize that the process of collective bargaining, as usually understood, cannot be transplanted into the public service. It has its distinct and insurmountable limitations when applied to public-personnel management. The very nature and purposes of Government make it impossible for administrative officials to represent fully or to bind the employer in mutual discussions with Government-employee organizations. The employer is the whole people, who speak by means of laws enacted by their representatives in Congress. Accordingly, administrative officials and employees alike are governed and guided, and in many instances, restricted, by laws which establish policies, procedures, or rules in personnel matters."

Legislation of this nature will so encroach upon the administrative functions and responsibility of the Department, postmasters, and others charged with the administration of the postal service, that it would very seriously hamper the economic administration of this service.

Furthermore, this legislation fails to provide any method for determining whether an organization in fact represents a particular employee, or which organization represents an employee. There are two organizations now representing postal clerks. Jurisdictional disputes now arise among organizations of postal employees. This legislation could only serve to aggravate a confused situation.

This Department is opposed to the enactment of this legislation.

The Bureau of the Budget has advised that there would be no objection to the submission of this report to the committee.

Sincerely yours,

MAURICE H. STANS,
Deputy Postmaster General.

CHANGES IN EXISTING LAW

Compliance with subsection 4 of rule XXIX of the Standing Rules of the Senate has been omitted inasmuch as it is necessary, in the opinion of the committee, to dispense with the requirements of such subsection to expedite the business of the Senate.

O

Calendar No. 2681

84TH CONGRESS, 2d Session | SENATE | REPORT No. 2636

AUTHORIZING THE SECRETARY OF COMMERCE TO SELL CERTAIN WAR-BUILT VESSELS

JULY 18 (legislative day, JULY 16), 1956.—Ordered to be printed

Mr. MAGNUSON, from the Committee on Interstate and Foreign Commerce, submitted the following

REPORT

[To accompany S. J. Res. 177]

The Committee on Interstate and Foreign Commerce, to whom was referred the joint resolution (S. J. Res. 177) to authorize the Secretary of Commerce to sell certain war-built vessels, having considered the same, report favorably thereon with amendments and recommend that the joint resolution as amended do pass.

PURPOSE OF THE JOINT RESOLUTION

The purpose of the joint resolution is to provide for the sale of two war-built vessels under the jurisdiction of the Secretary of Commerce to the highest responsible bidder who is a citizen of the United States within the meaning of section 2 of the Shipping Act, 1916, as amended, possessing the ability, experience, financial resources, and other necessary qualifications as determined by the Secretary of Commerce. The vessels are to be employed on essential foreign trade routes 3 and 4 between Atlantic coast ports of the United States and Cuba and Mexico as dry-cargo common carriers.

HISTORY OF THE JOINT RESOLUTION

An American-flag company was subsidized in its operations on trade routes 3 and 4 to Cuba and Mexico from the outset of the Merchant Marine Act of 1936, and before that it received financial aid from the Government under previous maritime legislation. This operator gave up its operating-differential subsidy contract in 1953, and subsequently sold its vessels. The Federal Maritime Board, the Maritime Administration, and the Department of Commerce desire to have American-flag service on that portion of essential trade routes 3 and 4 previously served with American-flag vessels. They would

welcome such service on an operating subsidy basis or on an unsubsidized basis.

Part of the reluctance of the steamship companies to institute United States-flag service in the Cuban or Mexican trades can be attributed to the substantial loading and discharging problems which are attendant to these services. These loading and discharging problems include not only the high cost of handling general cargo, but also the inordinate delays which are occasioned by the time spent in port by the standard type berth operation.

One steamship company has made a detailed study of both the Cuban and Mexican services and has proposed to institute under the American flag a complete "container ship operation." The containers would be capable of handling practically all types of commodities now moving on these essential services, would have the tremendous advantage of consolidating the cargo in one convenient handling unit and would eliminate export-packaging requirements for outbound shipments. Instead of being required to handle small parcels, this company stated that it would be able to eliminate approximately 75 percent of the handling, which will result in a commensurate reduction in the handling cost and port delays. To obtain an American-flag operator on that portion of essential trade routes 3 and 4 which is not now served by American-flag vessels, the Federal Maritime Board and the Maritime Administration would favor selling to an American-flag operator two vessels on the same basis that they have sold vessels under recent legislation to accomplish special purposes after the expiration of the sales authority of the Merchant Ship Sales Act of 1936.

EXPLANATION OF THE JOINT RESOLUTION

The resolution, as amended, authorizes the Secretary of Commerce to sell within 1 year after its enactment, to the highest responsible bidder, who is a citizen of the United States any 2 war-built vessels under his jurisdiction on an as is, where is, basis. The vessels would be restricted to employment on that portion of essential trade routes 3 and 4 between Atlantic coast ports of the United States to Cuba and Mexico and to maintain adequate service on such portion of such routes. The vessels must be employed exclusively as dry-cargo common carriers on these routes until the end of their useful lives or until they are replaced by new tonnage. The restrictions will run at law and in equity with the title to the vessels and are binding upon all subsequent owners.

Under the provisions of the resolution, as amended, the Secretary of Commerce must determine, prior to entering into a contract of sale for the vessels, that the successful bidder possesses the ability, experience, financial resources, and other qualifications necessary to enable it to operate and maintain the vessels in service on the routes. The upset prices of the vessels shall be their sales prices computed under the Merchant Ship Sales Act of 1946 as of January 15, 1951, depreciated (after reduction for residual value) on a straight line basis from the period from January 15, 1951, to the date of execution of the contract of sale, on the basis of the portion of a 20-year useful life of the vessels remaining after January15, 1951. The purchaser must pay 25 percent of the sales price down with the balance payable over the remainder of the economic life of the vessel at the rate of 3½ percent per

annum, secured by a preferred mortgage in form satisfactory to the Maritime Administrator. The sales shall be made upon such conditions as to protect the interests of the United States.

The resolution, as amended, also contains contractual provisions to protect the United States in the event of reacquisition through purchase or requisition.

Hearings were held on the resolution and both the Department of Defense and the Department of Commerce supported the objectives of the bill. The Department of Defense testified that they had no objection to the utilization and sale of two C4–S–B2 type vessels now in the reserve fleet, and such sale would not interfere with their present logistic requirements. Admiral Good stated that there are 25 C–4's in the reserve fleet but 19 of the 25 are actually naval auxiliaries. The Navy would object to the sale of the auxiliaries but of the remaining six "The Navy would not oppose their withdrawal from the Maritime reserve fleet for employment in industry." Referring to the "container ship" concept, Admiral Good stated:

> This concept of ocean transportation is of special interest to the Department of Defense, and evaluation of the method, along with commercial experience in the operation, is very desirable.

The Maritime Administration suggested certain amendments which would change the pricing formula in the resolution, as introduced, and would add certain restrictions to the employment of the vessel once the sale had been made and service had been instituted. All of the suggested amendments have been incorporated into the resolution as amended.

However, at the hearing, the Maritime Administration did not voice any objection to the "container ship" concept. Subsequent to the hearing, the committee did receive a communication from the Department of Commerce recommending the "container ship" provision be eliminated and substitute therefore the language:

> Such sales shall be made upon such conditions as the Secretary of Commerce deems necessary to protect the interests of the United States.

The Department took the position that it would take a detailed study to determine whether conversion to container ships would provide an economically feasible operation. The resolution was amended to comply with the request of the Secretary which, in effect, enlarges the authority of the Secretary under the terms of the resolution. In doing so, the committee feels that the Secretary of Commerce should take the necessary steps to determine whether the container ship concept is economically feasible but in no way does the committee wish to imply that it does not favor the container ship concept, if it is found to be economically practicable.

In the event a container ship operation is found to be feasible, the price of the vessels contemplated by this bill would be only a minor part of the capital investment necessary to institute the service proposed. It was testified that an investment of approximately $8 million would be required for the purchase of the necessary number of containers to be employed in the service. No part of this substantial investment of private capital would be subject to any Government

guaranty or Government financial aid. In addition, an investment of approximately $3 million would be necessary for the reconversion of the vessels for use as container ships, and various other expenditures would be required, which would constitute an investment of private capital in the neighborhood of $13 million.

It has been brought to the attention of the committee that the private market has been canvassed in an attempt to purchase suitable vessels to be employed in this service. The primary requirement of a container ship is that it must have sufficient cubic space available in the between decks so as to allow for the convenient stowage and movement of containers. There are only a few vessels in the present American fleet which would lend themselves to this type of operation. The vessel needed for the operation is one with a sufficient cubic capacity to carry approximately 500 containers and with a speed of not under 16 knots so as to maintain schedule requirements. It was testified that in order to obtain the necessary cubic capacity, it is virtually essential to have a ship with engines aft so that the cubic capacity in the center of the ship will be available for the carriage of containers. There are no such vessels available for purchase on the private market for use in this proposed operation.

Your committee believes that the resolution as amended will greatly promote the interests of the American merchant marine and is flexible enough to permit the prompt institution of United States-flag service on these routes, where there is presently no such service whatsoever, whether the ships be converted to container ships or remain conventional-type vessels. If the container-ship concept is feasible, your committee believes that all reasonable steps should be taken to encourage those with ingenuity and resourcefulness, as well as with the fitness, willingness, and ability, to try something new and different in an effort to overcome the obstacles present on trade routes 3 and 4 and, in general, to promote and execute new ideas and methods in the American merchant marine.

The departmental reports follow.

COMPTROLLER GENERAL OF THE UNITED STATES,
Washington, June 25, 1956.

Hon. WARREN G. MAGNUSON,
Chairman, Committee on Interstate and Foreign Commerce,
United States Senate.

DEAR MR. CHAIRMAN: Further reference is made to your letter dated June 12, 1956, acknowledged June 13, inviting our comments on Senate Joint Resolution 177, 84th Congress, 2d session, entitled "Joint Resolution to authorize the Secretary of Commerce to sell certain war-built tankers."

Senate Joint Resolution 177 would authorize the Secretary of Commerce, during a period of 6 months after its enactment, to sell the tankers *Mission De Pala* and *Mission San Antonio*, on an "as is, where is" basis, to Browning Lines, Inc., for $864,414.66 and $874,371.90, respectively, subject to the condition that the purchaser recondition the vessels in a domestic shipyard for use as container ships in the foreign commerce of the United States on trade routes 3 and 4. The sales price of each vessel would be reduced by $311 a day for the period beginning July 1, 1956, and ending with the date the contract of sale is executed and, in the event the named vessels are not available for sale, the Maritime Administrator is to designate suitable

substitute vessels which are to be sold at their statutory sales prices determined under section 3 (d) of the Merchant Ship Sales Act of 1946, but without regard to the floor price fixed by that section, depreciated at $311 a day up to and including the date the contracts of sale are executed. The purchaser would be required to pay at least 25 percent of the sales price of each vessel at the time the contract of sale is executed. The balance of the sales price, secured by a preferred mortgage on each vessel, would be payable in approximately equal annual installments over the remainder of the vessel's economic life, as determined by the Maritime Administration, with interest payable at the rate of 3½ percent a year.

The contracts of sale made under the authority of Senate Joint Resolution 177, would be required to contain two provisions that would run with the title to each vessel and would be binding on all owners. Under the first of such provisions, if the Government purchases or requisitions any of the vessels, the owner would be paid either the value of the vessel or the sales price under the contract plus the actual cost of capital improvements depreciated on the basis of the depreciation schedule adopted or accepted by the Secretary of the Treasury for income-tax purposes for the vessel, whichever is the lesser. Under the second provision each vessel is to remain documented under the laws of the United States during the remainder of its economic life or as long as there is due the United States any principal or interest on account of the sales price, whichever is the longer period.

The two tankers named in the bill are war-built vessels within the meaning of that term as used in the Merchant Ship Sales Act of 1946. They are of the T2–SE–A2 tanker type with a speed of 16 knots, as contrasted with the 14½ knots of the T2–SE–A1 tanker type. They were transferred to the Navy Department in 1947, were returned by the Navy to the reserve fleet in 1954 and are presently included in the 20 tankers which S. 3877, 84th Congress, 2d session, would authorize to be chartered from the reserve fleet pending construction of certain cargo-tankships by the charterer.

As stated above, the tankers named in the bill are classified as war-built vessels under the Merchant Ship Sales Act of 1946. With respect to the sale prices of such vessels, it should be noted that under section 3 (d) (4) of that act a war-built tanker could not be sold for less than a floor price of 50 percent of the domestic war cost of tankers of the same type if such amount was greater than the vessel's statutory sales price adjusted for war service and for depreciation to the date of sale. In the case of the *President Cleveland* and *President Wilson*, which were sold pursuant to Public Law 533, 83d Congress, 2d session, and in the case of the *Square Sinnet* and *Square Knot*, which were sold under Private Law 629, 84th Congress, 2d session, the floor prices of the vessels in question were found to be greater than the statutory sales prices adjusted for war service and depreciation to January 15, 1951, the expiration date of the sales authority under the 1946 act. Consequently, the sales prices were computed by depreciating the floor price, less a residual value, over the remainder of a 20-year vessel life. The unadjusted statutory sales price of the *Mission De Pala* and *Mission San Antonio* computed under section 3 (d) of the 1946 Sales Act, was $2,271,500. The sales prices of $864,414.66 for the *Mission De Pala*, and of $874,371.90 for the *Mission San Antonio*, which are prescribed by the present bill, were determined by deduct-

90005°—57 S. Rept., 84–2, vol. 5——22

ing 1 percent for wartime service, and 5 percent per year for depreciation from the date of the vessel's delivery to June 30, 1956, from the unadjusted statutory sales price. The depreciation rate results in a daily depreciation charge of $311, the amount stated in the joint resolution for reducing the sales prices beginning July 1, 1956. However, it should be noted that application of the same method used in computing sales prices of the vessels sold under Public Law 553 and Private Law 629 to the vessels named in Senate Joint Resolution 177 would result in a sales price of $1,019,866 for the *Mission De Pala* as of June 30, 1956, and of $1,024,248 for the *Mission San Antonio*, an increase of approximately $150,000 per vessel over the sale prices stated in the present bill. The daily depreciation rate beginning July 1, 1956, would be about $334. Since the bill provides that any vessels substituted for the named vessels are also to be depreciated at the rate of $311 a day to the date of sale, it is assumed that the substitute vessels would be restricted to other T2–SE–A2 tankers, since the stated depreciation rate would not necessarily be proper for application to vessels of a different class. Needless to say, the provision of the bill directing sale of such substitute vessels at the statutory sales prices without regard to the floor price established in the last 2 sentences of section 3 (d) of the Merchant Ship Sales Act will result in price differences which may be larger or smaller than in the case of the 2 vessels named in the bill.

No sales of T2–SE–A2s in operating condition have ever been consummated. It is therefore impossible to establish a market value for these tankers based on actual sales. However, recent sales of T2–SE–A1 (14 ½ knot) tankers have been consummated at $1,500,000 for United States-flag operation, and $2,200,000 for foreign-flag operation. Based on such information it would appear that the present market value of the higher speed tankers named in Senate joint resolution 177 would be substantially greater than either the prices stated therein or the prices computed according to the formula previously described as having been used in recent statutory sales of other war-built vessels.

It is our understanding that no American-flag subsidized operator has been employed on trade routes 3 and 4 since December 31, 1953, when the New York and Cuba Mail Steamship Co. failed to renew its subsidy contract, and that the Federal Maritime Board considers it desirable to maintain a subsidized operator on such routes. The necessity for maintaining privately owned and operated United States-flag vessels on all essential trade routes in the interest of national defense and the development of foreign commerce, was of prime concern to Congress in enacting both the Merchant Marine Act of 1936 and the Ship Sales Act of 1946. Hence, the sale of vessels from the reserve fleet to be used on trade routes 3 and 4 is in accord with the basic policy expressed in both of these acts, and would appear to be in the interest of the United States. Whether it is presently advisable to remove tankers from the reserve fleet for conversion to dry-cargo operation in such service is a matter on which we have no information and offer no comment. However, it is our opinion that the departure from previously established methods of computing the prices at which war-built vessels were sold under prior legislation has resulted in the inclusion of prices for sale of the vessels contemplated by Senate joint resolution 177 which are substantially lower

than their market value. Whether such inducement is essential to institution of American-flag operated vessels on trade routes 3 and 4 would appear to be a question of national policy exclusively for determination by Congress.

Other than the foregoing we have no comments to make on the bill.

Sincerely yours,

JOSEPH CAMPBELL,
Comptroller General of the United States.

TREASURY DEPARTMENT,
June 15, 1956.

Hon. WARREN G. MAGNUSON,
Chairman, Committee on Interstate and Foreign Commerce,
United States Senate, Washington, D. C.

MY DEAR MR. CHAIRMAN: Reference is made to your request for the views of this Department on Senate Joint Resolution 177, to authorize the Secretary of Commerce to sell certain war-built tankers.

The bill, which would provide the terms under which the Secretary of Commerce would be authorized to sell the tankers *Mission San Antonio* and *Mission De Pala*, is not of primary interest to this Department. Accordingly, the Department has no recommendation to make on the general merits of the proposed legislation.

Very truly yours,

FRED C. SCRIBNER, Jr.,
General Counsel.

THE SECRETARY OF COMMERCE,
Washington, July 17, 1956.

Hon. WARREN G. MAGNUSON,
Chairman, Committee on Interstate and Foreign Commerce,
United States Senate, Washington 25, D. C.

DEAR MR. CHAIRMAN: This is in reply to your telephone request of July 16, 1956, for the views of this Department with respect to the committee draft revision of Senate Joint Resolution 177, a joint resolution to authorize the Secretary of Commerce to sell certain war-built vessels.

The committee revision adopts substantially the amendments proposed by the Maritime Administrator when he testified on Senate Joint Resolution 177, July 3, 1956, except that it provides for the sale of 2 C4 type vessels rather than any 2 war-built vessels under the jurisdiction of the Secretary of Commerce as proposed by the Maritime Administrator. In addition, the draft revision provides for the sale of the vessels to any citizen of the United States instead of to a named purchaser, Browning Lines, Inc.

We repeat our recommendation that the bill authorize the sale of any two war-built vessels. This can be accomplished by striking out of section (a) the words "two C4–S–B2 vessels, to be designated by the Maritime Administrator" and substituting the words "any two war-built vessels under the jurisdiction of the Secretary of Commerce".

The draft revision would require that the vessels be converted for use as container ships. It would require a detailed study to determine whether conversion to container ships would provide an economically feasible operation. The language in (c) (1) should therefore be

stricken out and the following substituted therefor: "Such sales shall be made upon such conditions as the Secretary of Commerce deems necessary to protect the interests of the United States."

Since there may be more than one applicant to buy the vessels, the draft revision should be amended to provide for competitive bidding with an upset price. Section (a) of the bill should be amended, therefore, by inserting immediately before the words "a citizen of the United States" the words "the highest responsible bidder who is" and by striking the word "sales" where it first appears in the second sentence of section (a) and substituting therefor the word "upset".

With the amendments herein proposed, we would have no objection to favorable consideration of the draft revision.

The Bureau of the Budget has advised that it would interpose no objection to the submission of this letter to your committee.

Sincerely yours,

SINCLAIR WEEKS,
Secretary of Commerce.

There is no change in existing law.

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Calendar No. 2682

84TH CONGRESS, 2d Session | SENATE | REPORT No. 2637

PROVIDING PORT OF ENTRY AND RELATED FACILITIES ON THE ALASKA HIGHWAY AT THE ALASKA-CANADIAN BORDER IN THE TERRITORY OF ALASKA

JULY 18 (legislative day, JULY 16), 1956.—Ordered to be printed

Mr. JACKSON, from the Committee on Interior and Insular Affairs, submitted the following

REPORT

[To accompany H. R. 604]

The Committee on Interior and Insular Affairs, to whom was referred the bill (H. R. 604) to provide port of entry and related facilities on the Alaska Highway at the Alaska-Canadian border in the Territory of Alaska, and for other purposes, having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

The committee held a hearing on the measure, which was sponsored by the Honorable E. L. Bartlett, elected Delegate from Alaska, and received favorable testimony from the executive agencies concerned.

Committee action was unanimous.

EXPLANATION OF THE BILL

H. R. 604 directs the Secretary of the Interior to prepare plans for port of entry and related facilities adjacent to the Alaska Highway at the Alaska-Canadian border in the Territory of Alaska.

As introduced by Delegate Bartlett the bill would have authorized construction office facilities and housing needs of the several cooperating agencies operating near the Alaska-Canadian border adjacent to the Alaska Highway in Alaska. The Bureau of Customs, the Immigration and Naturalization Service, and the Post Office are among the Federal agencies requiring these accommodations.

However, the House committee amended the bill to provide only that the Secretary should "prepare a unified development plan" for such facilities. The Senate committee considered an amendment to authorize construction as well, but proposed plans submitted by the Governor of Alaska were so elaborate and costs so high, that the committee decided to concur in the measure as it passed the House.

As reported, the bill authorizes and directs the Secretary of the Interior to select a site for and to prepare a plan of office facilities and housing needs of the several cooperating agencies operating near the Alaska-Canadian border adjacent to the Alaska Highway in Alaska.

The Canadian Government several years ago built office and living quarters at three highway crossings of the Alaska-Canadian border including one at Snag, Yukon Territory, across the boundary from the probable site of the development that will be authorized pursuant to this bill. The United States Customs and Immigration Service headquarters are presently located 97 miles inside the international boundary and thus effective surveillance of aliens and undesirables is impossible. Likewise the increase in vehicular traffic across the border necessitates more adequate control measures.

Section 2 stipulates that the site selected shall be on land owned or controlled by the United States with the understanding that if the lands when selected are under the jurisdiction of another Federal department or agency they may be included without reimbursement after the written approval for inclusion has been obtained.

Section 3 authorizes the Secretary of the Interior to make arrangements with such cooperating Federal or Territorial agencies as he deems necessary and appropriate for the use of the site and facilities developed in accordance with this act.

Section 4 authorizes the appropriation of sufficient Federal funds not otherwise appropriated to carry out the provisions of this act. It also provides that the Secretary may expend funds made available by other Federal agencies or the Territory of Alaska to carry out the provisions of this act.

The bill provides that the proposed facilities should serve not only those who visit and travel to Alaska but also to truckers and other permanent residents who cross the boundary periodically and have regular need for border services.

REPORTS OF EXECUTIVE AGENCIES

The favorable reports of the Interior and Treasury Departments to the House committee, and the no objection report of the Department of Justice to the Senate committee are set forth in full below.

DEPARTMENT OF THE INTERIOR,
OFFICE OF THE SECRETARY,
Washington, D. C., March 17, 1955.

Hon. CLAIR ENGLE,
Chairman, Committee on Interior and Insular Affairs,
House of Representatives, Washington, D. C.

MY DEAR MR. ENGLE: Your committee has requested a report on H. R. 604, a bill to provide port of entry and related facilities on the Alaska Highway at the Alaska-Canadian border in the Territory of Alaska, and for other purposes.

We recommend the enactment of this bill.

This proposed legislation would provide much needed authority for the establishment, at a site near the Alaska-Canadian border in the vicinity of the Alaska Highway, of public and governmental facilities,

including office and housing needs. There is a great need for this border establishment to house offices of various agencies of the Government, such as the Bureau of Customs, Immigration and Naturalization Service, Post Office, and others. No facilities now exist for the performance of these governmental functions at or near the border where they properly should be located for the convenience of the traveler to Alaska. It is essential also that in conjunction with governmental facilities to be established near the border, because of the rapidly expanding travel to Alaska, adequate facilities for the comfort and convenience of the public be provided at such border establishment.

Perhaps the most critical need for this authorization arises in connection with the operation of the Customs and Immigration Services in Alaska. These offices are located approximately 100 miles from the border. Aliens and undesirables cannot be checked effectively because of this location. In these circumstances, the construction of appropriate facilities near the border is essential for the proper control of traffic, both merchandise and people arriving from foreign countries, either of Canadian or other origin. The present location precludes effective control and has greatly inconvenienced many persons who have visited Alaska.

Travel over the Alaska Highway is showing a strong increase each succeeding year and the public interest in Alaska is expanding rapidly. Scientists, naturalists, photographers, novelists, artists, and others have turned to Alaska for their work and inspiration. In addition, the national interest in this area warrants serious consideration of this measure.

The Canadian Government several years ago built office and living quarters at 3 highway crossings of the Alaska-Canadian border, including 1 at Snag, Yukon Territory, across the boundary from the probable site of the development that would be authorized pursuant to this bill. A comparable establishment is urgently needed on the Alaska side of the border.

We suggest the following minor amendment to this bill for purposes of clarification:

On page 2, line 10, after the word "site", insert the words "without reimbursement to such other Department or agency,".

The Bureau of the Budget has advised that there would be no objection to the submission of this report to your committee. That Bureau has advised further that such advice should not be construed as reflecting any commitment on the timing of a request for appropriations to carry out the purposes of the proposed legislation, if enacted.

Sincerely yours,

ORME LEWIS,
Assistant Secretary of the Interior.

TREASURY DEPARTMENT,
Washington, March 16, 1955.

Hon. CLAIR ENGLE,
Chairman, Committee on Interior and Insular Affairs,
House of Representatives, Washington, D. C.

MY DEAR MR. CHAIRMAN: Reference is made to your communication of January 18, 1955, requesting a report of the Treasury Department on H. R. 604, to provide port of entry and related facilities on

the Alaska Highway at the Alaska-Canadian border in the Territory of Alaska, and for other purposes.

The bill, if enacted, would authorize the Secretary of the Interior to select a suitable site and prepare a unified development plan of the facilities needed for the comfort and convenience of the public visiting Alaska and for the office and housing needs of cooperating Federal agencies operating near the Alaska-Canadian border in the vicinity of the Alaska Highway in the Territory of Alaska. It would also authorize the Secretary of the Interior to construct such facilities and utilities for their operation in cooperation with other Federal, Territorial, and other Government agencies with funds to be appropriated, out of any moneys in the Treasury, not otherwise appropriated, and any funds made available by the cooperating Federal agencies and the Territory of Alaska to carry out the provisions of the act.

There is submitted herewith a memorandum relative to the inadequate inspectional facilities of the customs service, describing conditions along the Alaska Highway near the Alaska-Canadian border and commenting on the advantages to be gained by passage of the bill.

The Department favors enactment of H. R. 604 as it provides for a desirable and economical means of obtaining urgently needed customs facilities at the border.

The Department has been advised by the Bureau of the Budget that there is no objection to the submission of this report to your committee.

Very truly yours,

H. Chapman Rose,
Acting Secretary of the Treasury.

Memorandum To Accompany Report H. R. 604

There is no community or any United States customs facilities where the Alaska Highway crosses the north and south boundary between Canada and Alaska, and persons required to report to customs must travel 97 miles northwesterly along the highway to the nearest customs station at Tok Junction. The customs-immigration station at this latter location and living quarters for personnel are converted barracks buildings and are very unsatisfactory for the purpose.

The fact that the customhouse is 97 miles from the border is somewhat embarrassing to the customs service in Alaska, and has resulted in many complaints for the reason that people living between the Tok Junction Inspection Station and the Canadian border are required to bring their products from Canada to this station for inspection, appraisement, and payment of duty and return to their destination along the route they have just traversed. There are approximately 176 white persons living along this stretch of highway and perhaps 200 or more Indians. There are also several small Indian villages not far off the Alaska Highway between the Canadian border and Tok Junction and several commercial establishments and lodges along this route but none has space to lease for customs and immigration use.

The Alaska Highway route is becoming increasingly popular with the traveling public and during the fiscal year between July 1, 1953, and June 30, 1954, 12,023 vehicles with 28,916 passengers reported to customs at Tok Junction.

The Public Buildings Service of the General Services Administration has developed, at the joint request of the customs and immigration

services, for inclusion in the report of eligible Federal building projects to be submitted for the consideration of the new Congress, a project contemplating the erection of a border station on the Alaska Highway at the Alaska-Canadian border. This project, however, does not contemplate the inclusion of facilities for the comfort and convenience of the public visiting Alaska, such as are proposed in H. R. 604.

The Bureau understands that the Civil Aeronautics Administration has funds available for construction of airports and landing strips in Alaska. If the project proposed by the bill is developed, consideration would be given to the allotment of funds for construction of a landing strip close enough that attendant immigration and customs functions could be performed by personnel of the border station.

It is believed that the consolidation into one cooperative project of the Federal, Territorial, and other Government services will be a very desirable and economic method of providing urgently needed customs facilities at the Alaska-Canadian border.

DEPARTMENT OF JUSTICE,
OFFICE OF THE DEPUTY ATTORNEY GENERAL,
Washington, D. C., April 17, 1956.

Hon. JAMES E. MURRAY,
Chairman, Committee on Interior and Insular Affairs,
United States Senate, Washington, D. C.

DEAR SENATOR: This is in further response to your request addressed to the Commissioner of Immigration and Naturalization for views on the bill (H. R. 604) to provide port of entry and related facilities on the Alaska Highway at the Alaska-Canadian border in the Territory of Alaska, and for other purposes.

The bill would authorize the construction by the Secretary of the Interior upon lands owned or controlled by the United States of facilities for the comfort and convenience of the public and for the office and housing needs of cooperating Federal agencies operating near the Alaska-Canadian border adjacent to the Alaska Highway in the Territory of Alaska.

To the extent that the bill apparently would make available for use by the Immigration and Naturalization Service of this Department of facilities which would be more suitable and desirable from an administrative and operational standpoint than are those presently in use, it would appear desirable. However, as to the advisability of the project generally the Department is not in possession of sufficient information on which to make any recommendation.

The Bureau of the Budget has advised that there is no objection to the submission of this report, but that this advice should not be construed as reflecting any commitment on the timing of a request for appropriations to carry out the purposes of the proposed legislation if enacted.

Sincerely,

WILLIAM P. ROGERS,
Deputy Attorney General.

The Committee on Interior and Insular Affairs unanimously recommends the enactment of H. R. 604.

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Calendar No. 2683

84TH CONGRESS, 2d Session | SENATE | REPORT No. 2638

AMENDING SECTION 1 OF THE ACT OF MARCH 4, 1915, AS AMENDED (48 U. S. C. SEC. 353)

JULY 18 (legislative day, JULY 16), 1956.—Ordered to be printed

Mr. JACKSON, from the Committee on Interior and Insular Affairs, submitted the following

REPORT

[To accompany H. R. 8226]

The Committee on Interior and Insular Affairs, to whom was referred the bill (H. R. 8226) to amend section 1 of the act of March 4, 1915, as amended (48 U. S. C. sec. 353), having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

The committee held a hearing on the measure at which the elected Delegate from Alaska, the Honorable E. L. Bartlett, who sponsored the bill, and representatives from the Bureau of Land Management and the Office of Territories, Department of the Interior, appeared and urged enactment.

Committee action was unanimous.

EXPLANATION OF THE BILL

The purpose of H. R. 8226 is twofold. It would amend existing law (act of March 4, 1915, as amended) which reserves sections 16 and 36 of public lands in each township to the Territory of Alaska for the support of common schools and section 33 in certain townships in the Tanana Valley for the support of the University of Alaska, and it would also permit attachment of the school reservation even though the section was subject to a Federal mineral lease at the time of acceptance of the survey. This provision is similar to that recently made applicable to school land grants in the States.

LEGISLATIVE HISTORY

The 1915 act did not provide for the reservation to the Territory for educational purposes of any land already appropriated nor for the subsequent reservation of those lands after the extinguishment of the

appropriation. This act reserved for the schools only those lands not known to be mineral in character as of the date of the acceptance of the survey, although the income and proceeds derived by the United States from the mineral sections were to be devoted to Territorial schools.

Amendments to the 1915 act in 1927 and in 1952 provided that the fact that school section lands were mineral in character would not defeat the reservation to the Territory, and that the school reservation would attach to appropriated lands if the appropriation were subsequently extinguished.

However, as pointed out in the executive communication from the Interior Department, set forth below, subsequent to the enactment of the 1952 act, a series of court decisions and administrative opinions based on them held that the existence of an appropriation on the land at the time of the survey forever defeated the school grant, even though the appropriation is subsequently extinguished. That is, the 1952 act did not take care of those cases where the withdrawal was extinguished prior to the date of the act, but subsequent to acceptance of the survey. H. R. 8226 would correct this situation.

Under existing law, the existence of a Federal mineral lease on a school land section in Alaska would prevent attachment of the school reservation. The first provision of H. R. 8226 would place Alaska in the same position as the States with respect to school land sections on which a Federal mineral lease has been issued. Proceeds from existing Federal leases on such lands would be dedicated to the schools. Rights under the proposed provision would accrue only when the lands were surveyed and the survey accepted.

Evidence presented at the hearing convinced the committee that enactment of H. R. 8226 would benefit substantially the public schools of Alaska and the University of Alaska.

DEPARTMENT COMMUNICATION

The executive communication of the Department of the Interior submitting the proposed legislation is as follows:

DEPARTMENT OF THE INTERIOR,
OFFICE OF THE SECRETARY,
Washington, D. C., December 14, 1955.

Hon. SAM RAYBURN,
Speaker, House of Representatives.

MY DEAR MR. SPEAKER: Enclosed is a draft of a proposed bill to amend section 1 of the act of March 4, 1915, as amended (48 U. S. C., sec. 353).

We suggest that the proposed bill be referred to the appropriate committee for consideration, and we recommend that it be enacted.

Section 1 of the act of March 4, 1915, as amended (48 U. S. C., sec. 353), reserves sections 16 and 36 of the public lands in each township of the Territory of Alaska from sale or settlement under the public land laws for the support of the common schools of the Territory and section 33 in certain specified townships for the support of the University of Alaska. The 1915 act as originally enacted (38 Stat. 1214) did not provide for the reservation to the Territory for educational purposes of any lands already appropriated, nor for the subsequent reservation of those lands after the extinguishment of the

appropriation. The 1915 act reserved for the support of the schools only those lands not known to be mineral in character as of the date of the acceptance of the survey, although the income and proceeds derived by the United States from the mineral sections were to be devoted to the support of the Territory's educational institutions. The act of March 5, 1952 (66 Stat. 14), following the pattern of section 1 of the act of January 25, 1927, as amended (43 Stat. U. S. C., sec. 870), which liberalized the school-section grants to the States, amended the 1915 act to provide that lands which were reserved or otherwise appropriated at the date of the acceptance of the survey should be reserved to the Territory upon the extinguishment of the reservation or other appropriation. Furthermore, the 1952 act amended the 1915 act so that mineral as well as nonmineral lands would be reserved for the Territory.

It has been held that the existence of an appropriation at the time of the survey forever defeats a school-section grant, even though the appropriation is subsequently extinguished. *Andrew J. Billan* (36 L. D. 334); *State of Utah* (on petition, 47 L. D. 359). Statutes generally are not construed as having a retroactive effect in the absence of a clear statutory expression of such intent or a necessary implication to that effect. *Fullerton-Krueger Lumber Co.* v. *Northern Pacific Ry. Co.* (266 U. S. 435). See also Crawford, Statutory Construction (sec. 306) and cases cited. It has been concluded, therefore, that under the 1952 act lands which were subject to an appropriation at the time of survey, but which were restored prior to its enactment, are not reserved for the support of the Territory's educational institutions. We are confident that, if the problem had been recognized at the time, Congress would have reserved for school purposes lands restored prior to the enactment of the 1952 act as well as those restored thereafter, for its concern was with the protection of the Territory's rights to school sections. (See H. Rept. No. 559, 82d Cong., 2d sess. 1951.) Consequently, our proposed bill would amend section 1 of the 1915 act as amended to provide that the reservation of a school section would not be defeated solely because the section in question had been appropriated at the time of survey and had been restored prior to March 5, 1952.

The proposed bill would also permit the reservation for school purposes of lands subject to a mineral lease or permit or to an application for such a lease or permit. The Territory should be entitled to a reserve of such lands if they are otherwise available. A similar provision is contained in the act of April 22, 1954 (68 Stat. 57) relating to school-section grants to the States. The proposed bill would provide that the existence of a mineral lease or permit, or an application for such a lease or permit, would not prevent attachment of the school reserve, whether the lands are actually mineral or nonmineral in character. Mineral leases and permits would continue to be administered under the Mineral Leasing Act (30 U. S. C., sec. 181) as provided in the second and third paragraphs of section 1 of the 1915 act which were added by the act of August 5, 1953 (67 Stat. 364), and the proceeds from such existing leases or permits would be distributed under those provisions.

We urge the enactment of this bill to assist the Territory in its vital school program, by assuring it of a more equitable treatment in the matter of school sections.

The Bureau of the Budget has advised that there is no objection to the presentation of this proposed report to the Congress.

Sincerely yours,

WESLEY A. D'EWART,
Assistant Secretary of the Interior.

CHANGES IN EXISTING LAW

In compliance with subsection (4) of rule XXIX of the Standing Rules of the Senate, changes in existing law made by the bill, as introduced, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italics, existing law in which no change is proposed is shown in roman):

SECTION 1 OF THE ACT OF MARCH 4, 1915, AS AMENDED (48 U. S. C. SEC. 353)

When the public lands of the Territory of Alaska are surveyed, under direction of the Government of the United States, sections numbered 16 and 36 in each township in said Territory shall be reserved from sale or settlement for the support of common schools in the Territory of Alaska; and section 33 in each township in the Tanana Valley between parallels sixty-four and sixty-five north latitude and between the one hundred and forty-fifth and the one hundred and fifty-second degrees of west longitude (meridian of Greenwich) shall be reserved from sale or settlement for the support of a Territorial agricultural college and school of mines established by the Legislature of Alaska upon the tract granted in section 354 of this title: *Provided*, That where settlement with a view to homestead entry has been made upon any part of the sections reserved before the survey thereof in the field, or where the same may have been sold or otherwise appropriated by or under the authority of any Act of Congress, or are wanting or fractional in quantity, other lands may be designated and reserved in lieu thereof in the manner provided by sections 851 and 852 of Title 43: *Provided further*, That the Territory may, by general law, provide for leasing said land in area not to exceed one section to any one person, association, or corporation for not longer than ten years at any one time: *And provided further*, That the entire proceeds or income derived from said reserved lands, are appropriated and set apart as separate and permanent funds in the Territorial treasury, to be invested and the income from which shall be expended only for the exclusive use and benefit of the public schools of Alaska or of the agricultural college and school of mines, respectively, in such manner as the Legislature of Alaska may by law direct. Nothing in this section and section 354 of this title shall affect any lands included within the limits of existing reservations of or by the United States, or lands subject to or included in any valid application, claim, or right initiated or held under any laws of the United States unless and until such reservation, application, claim, or right is extinguished, relinquished, or canceled [.]: *Provided, That the existence of a mineral lease or permit, or application therefor, shall not prevent the reservation of land under this section, and such leases, permits, and applications shall be administered as hereinafter provided. The rights of the Territory to any lands under this Act shall not be denied on the sole grounds that such lands were at the time of the*

acceptance of the survey subject to a reservation, application, claim, or right and that that reservation, application, claim, or right was extinguished, relinquished, or cancelled prior to March 5, 1952.

All deposits of oil, gas, oil shale, phosphate, sodium, and potassium in the reserved lands together with the lands containing such deposits shall be subject to disposition under the Mineral Leasing Act of February 25, 1920 (41 Stat. 437), as amended, and all deposits of coal in the reserved lands together with the lands containing such deposits shall be subject to disposition under the Alaska Coal Leasing Act of October 20, 1914 (38 Stat. 741), as amended. * * *

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Calendar No. 2684

84TH CONGRESS, 2d Session | SENATE | REPORT No. 2639

PROVIDING FOR THE DISPOSITION OF SURPLUS PERSONAL PROPERTY TO THE TERRITORIAL GOVERNMENT OF ALASKA UNTIL DECEMBER 31, 1958

JULY 18 (legislative day, JULY 16), 1956.—Ordered to be printed

Mr. JACKSON, from the Committee on Interior and Insular Affairs, submitted the following

REPORT

[To accompany H. R. 10946]

The Committee on Interior and Insular Affairs, to whom was referred the bill (H. R. 10946) to provide for the disposition of surplus personal property to the Territorial government of Alaska until December 31, 1958, having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

The committee held a hearing on the measure, which was sponsored by the elected Delegate from Alaska, the Honorable E. L. Bartlett, and representatives of the executive agencies concerned expressed administration support for the bill.

EXPLANATION OF THE MEASURE

H. R. 10946 would extend for 2 years, or until December 31, 1958, the law under which the Territory of Alaska can acquire personal property surplus to the needs of the Federal Government.

Public Law 659, 83d Congress, provides that the Governor of Alaska may request transfer of Federal personal property in Alaska, without reimbursement or transfer of funds, when he finds such surplus property "to be essential for the operations or activities of the Territorial government."

This law has been of substantial benefit to the Territory, the committee was informed at the hearing, and the Territory now wants it to be in effect for an additional 2 years. In addition, the bill provides that the Territory shall pay costs of care and handling, a provision not in the original law.

Delegate Bartlett testified before the committee that the property transferred to date had for the most part consisted of tools and

supplies for a sanitation program for isolated villages in the Bering Sea area, cables and steel rods for highways, and steel mats for landing strips for small communities.

The property must of course have been declared surplus to the needs of the Federal Government; and in virtually all cases this means that the cost of moving the material out of Alaska would substantially exceed its value.

At the hearing the question of the desirability of including in the bill a prohibition against resale by the Territory of any of the property thus acquired was discussed. It was pointed out that the Administrator of the General Services Administration, who has responsibility for administration of Public Law 659, 83d Congress, could better care for such a contingency by regulation.

The committee wishes to record its views that the Federal property acquired under the provisions of this law should not be subject to resale by the Territory. Such property must have been found by the Governor to be "essential to the operations or activity of the Territorial government." It is the committee's intent that the Administrator of the General Services Administration will make appropriate provision in his regulations to this effect.

REPORTS OF EXECUTIVE AGENCIES

The favorable reports of the Bureau of the Budget and of the Department of the Interior to the House committee are set forth in full below. The House adopted the recommended amendments and they appear in the reported bill.

DEPARTMENT OF THE INTERIOR,
OFFICE OF THE SECRETARY,
Washington, D. C., May 25, 1954.

Hon. CLAIR ENGLE,
Chairman, Committee on Interior and Insular Affairs,
House of Representatives, Washington, D. C.

MY DEAR MR. ENGLE: This responds to your request for the views of this Department on H. R. 10946, a bill entitled "To provide for the disposition of surplus personal property to the Territorial government of Alaska until December 31, 1958," which would amend the act of August 24, 1954 (Public Law 659, 83d Cong., 68 Stat. 794).

We recommend that that bill be enacted, were it to be amended as proposed herein.

The above-mentioned act of August 24, 1954, authorizes the disposal to the Territorial government of Alaska without reimbursement of surplus personal property owned by the United States, when the Governor of Alaska finds that such property is essential for the operations or activities of the Territorial government. The operation of the law is limited to surplus personal property in Alaska, and the Territory may thus under the statute obtain only such property as is physically located in Alaska. By its terms, Public Law 659 will expire on December 31, 1956, and the purpose of H. R. 10946 is to extend its life for an additional 2 years, until December 31, 1958.

The extension of this law is as justified as was its initial enactment. The purpose of the original statute, as this Department reported in 1954, is to allow the Territory to obtain property no longer needed by

any agency of the United States when such property is needed by the Territory for useful public purposes. Federal agencies in Alaska frequently have for disposal substantial quantities of Federal property which cannot be sold for prices commensurate with its value because of its location in the Territory and the comparatively high transportation costs to the States.

Under the terms of Public Law 659, Alaska has benefited materially. As of January 31 of this year, it had obtained surplus property which originally cost the Federal Government in excess of $3 million. Such property, if sold under the Federal property laws requiring public sales, would probably have resulted in only a negligible return to the United States.

Among the property transfers to Territorial agencies which have been of particular benefit to the people of Alaska are the following: The Alaska Department of Aviation has obtained steel mat for landing strips for small communities which are isolated except for air transport. The department of public health has obtained tools and supplies for a sanitation program for isolated native villages on the Bering Sea. The Territorial engineer has installed harbor and water front improvements for fishing boats, using spikes, fittings, cable, steel rods, and many other items obtained from surplus. The Alaska Soil Conservation District has acquired tractors, pumps, soil compactors, and other items of equipment essential to its work and for which funds were not available. The departments of fisheries and mines have received tools and equipment of many sorts in furtherance of their investigative programs to develop natural resources. The new department of Territorial police has received machines, equipment, first-aid kits, and gear for outlying stations. Civil defense has obtained large stocks of odd lots of substandard equipment and supplies such as cots, blankets, kitchen and mess utensils, and cook stoves and heaters for emergency use in outlying communities.

The Governor of Alaska, as the principal representative of this department in the Territory, is responsible for the administration of Public Law 659, and there has been established in his office a permanent accounting system indicating the kind and quantity of property distributed to using agencies of the Territorial government.

In view of the substantial benefits which the Territory of Alaska has derived from Public Law 659, in view of its continuing need for surplus Federal personal property, and in view of the negligible return to the Federal Government that would be likely to arise from alternative dispositions, we strongly recommend extending the law for an additional 2 years as proposed in H. R. 10946.

We believe, however, that the bill should contain a specific provision that dispositions of property shall be made in accordance with regulations of the Administrator of General Services, and that such regulations may provide for reimbursement for costs of care and handling. Regulations have been issued by the General Services Administration to implement Public Law 659, and disposals have, of course, been made pursuant to them. A specific provision authorizing reimbursement for costs of care and handling is, we believe, entirely appropriate, and the Territory has in fact paid such costs under the existing law.

In order to accomplish the purpose of the bill, to make provision for the issuance of regulations by the Administrator of General Services, and to clarify the meaning of the provisions of the bill by having

the proposed authorities set forth in their entirety in the bill, we recommend that H. R. 10946 be amended by deleting all that language appearing in lines 1 through 7, page 1, and by inserting in lieu thereof the following language:

"*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That the Act entitled 'An Act to provide for the disposition of surplus personal property to the Territorial government of Alaska,' approved August 24, 1954 (68 Stat. 794) is amended—

"(1) By striking out 'December 31, 1956' where it appears in the first section and inserting in lieu thereof 'December 31, 1958'; and

"(2) By adding a new section to read as follows:

" 'SEC. 3. Disposals of surplus property pursuant to section 1 of this Act shall be made in accordance with regulations prescribed by the Administrator of General Services, including provision for reimbursement for costs of care and handling.' "

The Bureau of the Budget has advised that there is no objection to the submission of this report to your committee.

Sincerely yours,

WESLEY A. D'EWART,
Assistant Secretary of the Interior.

EXECUTIVE OFFICE OF THE PRESIDENT,
BUREAU OF THE BUDGET,
Washington, D. C., May 28, 1956.

Hon. CLAIR ENGLE,
Chairman, Committee on Interior and Insular Affairs,
House of Representatives, Washington, D. C.

MY DEAR MR. CHAIRMAN: Reference is made to your request for the views of this Bureau concerning H. R. 10946, to provide for the disposition of surplus personal property to the Territorial government of Alaska until December 31, 1958.

The bill would extend for a 2-year period the authority granted by Public Law 659 (83d Cong.) for the Territory of Alaska to acquire surplus Federal personal property without cost.

We are informed that pursuant to Public Law 659, the Territory has acquired a great variety of surplus property, the original estimated cost of which is in excess of $3 million. Had this property been sold under the Federal property laws requiring public sales there probably would have been only a small return to the United States.

The Department of the Interior, in a report on this bill, recommends that the bill be amended by adding a new section requiring that disposals be made in accordance with regulations prescribed by the Administrator of General Services, which regulations would require reimbursement for costs of care and handling.

If so amended, this Bureau would recommend enactment of the bill.

Sincerely yours,

ROBERT E. MERRIAM,
Assistant to the Director.

CHANGES IN EXISTING LAW

In compliance with subsection (4) of rule XXIX of the Standing Rules of the Senate, changes in existing law made by the bill, as introduced, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italics, existing law in which no change is proposed is shown in roman):

ACT OF AUGUST 24, 1954 (68 STAT. 794)

That notwithstanding any provision of the Federal Property and Administrative Services Act of 1949, as amended, or any other provision of law, surplus personal property may be disposed of until [December 31, 1956,] *December 31, 1958*, to the Territorial government of Alaska at the request of the Governor of Alaska without reimbursement or transfer of funds when such surplus personal property is found by the Governor to be essential for the operations or activities of the Territorial government.

SEC. 2. The terms "property" and "surplus property", as used in section 1 hereof, shall have the meaning now or hereafter ascribed to them in the Federal Property and Administrative Services Act of 1949, as amended.

SEC. 3. Disposals of surplus property pursuant to section 1 of this Act shall be made in accordance with regulations prescribed by the Administrator of General Services, including provision for reimbursement for costs of care and handling.

The Committee on Interior and Insular Affairs recommends enactment of H. R. 10946.

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Calendar No. 2685

84TH CONGRESS, 2d Session | SENATE | REPORT No. 2640

AMENDING THE ACT ENTITLED "AN ACT RELATING TO THE COMPENSATION OF COMMISSIONERS FOR THE TERRITORY OF ALASKA", APPROVED MARCH 15, 1948 (62 STAT. 80) AS AMENDED BY THE ACT OF JULY 12, 1952 (66 STAT. 592, 48 U. S. C. 116a).

JULY 18 (legislative day, July 16), 1956.—Ordered to be printed

Mr. JACKSON, from the Committee on Interior and Insular Affairs submitted the following

REPORT

[To accompany H. R. 11024]

The Committee on Interior and Insular Affairs, to whom was referred the bill (H. R. 11024) to amend the act entitled "An act relating to the compensation of commissioners for the Territory of Alaska," approved March 15, 1948 (62 Stat. 80), as amended by the act of July 12, 1952 (66 Stat. 592, 48 U. S. C. 116a), having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

Committee action was unanimous.

PURPOSE OF MEASURE

H. R. 11024 would authorize United States commissioners in Alaska to retain up to $12,500 in the fees they collect.

At present, they are allowed to retain only $7,500. In the continental United States, Federal commissioners under recent law are permitted to retain up to $10,500. However, evidence was presented to the committee that the duties of commissioners in Alaska are much more onerous than those of commissioners in the States, as explained below. Furthermore, living costs are substantially higher in the Territory, as evidenced by the 25 percent differential allowed other Federal employees in Alaska.

There are presently 65 United States commissioners in Alaska but H. R. 11024 would affect only the 5 in Anchorage, Fairbanks, Kodiak, Juneau, and Ketchikan. The fees collected by the other 60 commissioners are not sufficiently large to place the offices in the proposed category.

Delegate E. L. Bartlett, of Alaska, testified before the committee that enactment of H. R. 11024 was highly desirable in order to keep qualified men in office.

CONTINENTAL UNITED STATES: DUTIES OF COMMISSIONERS

United States commissioners in the States receive written complaints made upon oath before the commissioner stating the essential facts constituting the offense alleged to have been committed by a person charged with an offense against the United States. The commissioner then issues a warrant for his arrest, and when the warrant is executed the defendant is brought before the commissioner who, after making a preliminary examination, determines whether he shall be released or held for further court action, and, if he is held, determines whether he should be committed to jail or released on bond and in the latter case fixes the amount of bond.

Commissioners also issue search warrants.

If especially designated to do so, a commissioner may try petty offenses against the United States committed in places over which the United States has exclusive or concurrent jurisdiction.

Commissioners also have miscellaneous functions less frequently exercised relating to examination for discharge of indigent prisoners, extradition proceedings, taking bail, affidavits, and depositions in civil cases.

ALASKA: DUTIES OF COMMISSIONERS

In Alaska, in addition to their special powers as United States commissioners, they perform the functions of a coroner, justice of the peace, notary public, probate judge, and recorder.

Under the provisions of title 48, United States Code, section 108, the commissioners in Alaska in addition to their special powers are empowered to—

> perform all the duties and exercise all the powers, civil and criminal, imposed or conferred on the United States commissioners by the general laws of the United States.

As commissioner, the individual conducts hearings to determine whether offenders should be held to answer to the district court in cases involving felonies; conducts trials in misdemeanor cases; issues search warrants; and conducts hearings in matters for the release of indigent persons.

As coroner, the Alaska commissioner conducts inquests concerning the death or wounding of any person.

As justice of the peace, he issues marriage licenses; performs marriage ceremonies; tries civil cases where the amount involved does not exceed $1,000; conducts juvenile trials; and organizes searching parties for lost or missing persons.

As notary public, he performs the usual services inherent in that office.

As probate judge, the commissioner in Alaska conducts hearings concerning the sanity of an individual; appoints guardians; conducts adoption proceedings; serves as administrator in estates of $1,000 or less; and appoints administrators.

As a recorder, he records instruments or papers, and records vital statistics such as deaths, births, and marriages.

COMMITTEE CONCLUSIONS AND RECOMMENDATIONS

In the light of the foregoing, and the duties imposed on commissioners in the Territory of Alaska, it appears essential that the highest possible caliber of persons be attracted to these positions. It is believed the increase in compensation provided in H. R. 11024 will be of material benefit in the recruitment of commissioners. The Governor of Alaska is on record as favoring this legislation.

Since Federal employees in the Territory of Alaska receive a 25-percent cost-of-living allowance, the $12,500 proposed for Alaska commissioners is related directly to the $10,500 proposed for commissioners in the continental United States.

This legislation requires no Federal appropriation of funds.

REPORTS OF EXECUTIVE AGENCIES

Favorable reports from the Administrative Office of the United States Courts, the Bureau of the Budget, and the Department of the Interior to the House committee are set forth below.

DEPARTMENT OF THE INTERIOR,
OFFICE OF THE SECRETARY,
Washington, D. C., June 6, 1956.

Hon. CLAIR ENGLE,
Chairman, Committee on Interior and Insular Affairs,
House of Representatives, Washington, D. C.

MY DEAR MR. ENGLE: This responds to your request for the views of this Department on H. R. 11024, a bill to amend the act entitled "An act relating to the compensation of commissioners for the Territory of Alaska," approved March 15, 1948 (62 Stat. 80), as amended by the act of July 12, 1952 (66 Stat. 592, 48 U. S. C. 116a).

We recommend that the bill be enacted.

H. R. 11024 would provide that the commissioners for the Territory of Alaska would be able to retain as compensation all fees earned during a calendar year in an amount that does not exceed $10,500. The present limit on their compensation is $7,500.

The commissioners in Alaska have all the jurisdiction of commissioners located in the States and, in addition, they have a wide range of duties which commissioners located in the States do not have. It is essential, therefore, that the highest caliber of persons be attracted to these positions, and the increase in compensation provided in the bill will be of material benefit in this respect. The Governor of Alaska has informed us that he favors the enactment of this legislation.

It should be noted that funds for the increase in compensation will come entirely from fees collected by the commissioners in the performance of their duties, and no appropriation action will be required to meet the increase in their compensation.

The Bureau of the Budget has advised that there is no objection to the submission of this report to your committee.

Sincerely yours,

WESLEY A. D'EWART,
Assistant Secretary of the Interior.

ADMINISTRATIVE OFFICE OF THE UNITED STATES COURTS,
Washington, D. C., May 17, 1956.

Hon. CLAIR ENGLE,
Chairman, Committee on Interior and Insular Affairs,
House of Representatives, Washington, D. C.

DEAR MR. CHAIRMAN: This is in response to your request for a report on H. R. 11024, entitled "A bill to amend the act entitled 'An act relating to the compensation of commissioners for the Territory of Alaska, approved March 15, 1948 (62 Stat. 80), as amended by the act of July 12, 1952 (66 Stat. 592, 48 U. S. C. 116a).'"

The bill would increase to $10,500 per year the limit of fees earned by commissioners in Alaska which may be retained by them as compensation. The present limit is $7,500 which has been in effect since July 12, 1952, when it was raised to that amount from $5,000.

The Judicial Conference of the United States has not considered this particular bill. However, the Conference has recommended legislation which would increase the limit of fees which may be received by United States commissioners in the States to $10,500 per year. This recommendation has been embodied in H. R. 10949 introduced by Mr. Celler and ordered favorably reported to the House by the Judiciary Committee. Since commissioners in Alaska not only have all of the jurisdiction of commissioners in the States but in addition have a wide range of duties and responsibilities which the latter do not have, it seems only reasonable for the commissioners in Alaska to be permitted to earn at least as much as commissioners in the States may earn. Also there is the additional factor which is well known of the higher living costs in Alaska.

The entire compensation of commissioners in Alaska for their official services comes from the prescribed fees. About 85 percent of their fees are received from private individuals and corporations. The only fees which they receive from the United States Treasury are paid them for performing services as justices of the peace in criminal cases, coroners, and committing magistrates. The fee schedule is prescribed by the Administrative Office of the United States Courts. All fees must be accounted for by the commissioners in quarterly reports to the Administrative Office and any surplus above expenses and the fees permitted to be retained by the act of July 12, 1952 (66 Stat. 592, 48 U. S. C. 116a), must be paid over to the clerk of the district court and becomes available for expenses of the court.

The commissioners in the States are primarily committing magistrates who may bind over defendants to the grand jury, fix bail, issue search warrants, and if specially designated, try petty offenses committed on Government reservations. Section 108 of title 48, United States Code, provides that commissioners in Alaska "shall be ex officio justices of the peace, recorders, and probate judges, and shall perform all the duties and exercise all the powers, civil and criminal, imposed or conferred on the United States commissioners by the general laws of the United States and the special laws applicable to Alaska." By this and other statutes commissioners in Alaska are given powers to try minor civil cases as well as criminal cases, grant writs of habeas corpus returnable to the district judge, try juvenile cases, insanity cases, administer estates, hold coroners' inquests, and organize search parties for lost persons. They record deeds, and

mortgages, and other instruments, issue marriage licenses, perform marriage ceremonies, issue birth certificates and death certificates.

As the business and population of the Territory of Alaska have increased, the work of the commissioners, particularly in Anchorage, Fairbanks, Juneau, and some other places has greatly expanded. A staff of 8 people besides the commissioner is required to handle the work at Anchorage and 6 people besides the commissioner are needed at Fairbanks. For the calendar year 1955 the commissioner at Anchorage had gross earnings of $77,497.12 of which $14,281.81 came from the United States and $63,215.31 from other sources. His disbursements were $34,824.12, leaving net earnings of $42,673.00, of which he retained $7,500 and paid into court surplus earnings of $35,173.00. The commissioners at Fairbanks, Juneau, Ketchikan, and Kodiak also had net earnings in excess of $7,500. However, only the commissioners in Anchorage and Fairbanks had net earnings exceeding $10,500 during 1955 and it would appear that they probably would be the only commissioners who would receive the maximum compensation of $10,500 if this bill is enacted.

I hope that your committee will give early consideration to this proposed legislation. If you should schedule a hearing, Mr. Whitehurst, the Assistant Director, or I will be glad to appear before the committee for the purpose of giving you any further information in this connection which you may request.

Sincerely yours,

HENRY P. CHANDLER.

EXECUTIVE OFFICE OF THE PRESIDENT,
BUREAU OF THE BUDGET,
Washington, D. C., May 25, 1956.

Hon. CLAIR ENGLE,
Chairman, Committee on Interior and Insular Affairs,
House of Representatives, Washington, D. C.

MY DEAR MR. CHAIRMAN: This is in response to your request for the views of this Bureau on H. R. 11024, a bill to amend the act entitled "An act relating to the compensation of commissioners for the Territory of Alaska," approved March 15, 1948 (62 Stat. 80), as amended by the act of July 12, 1952 (66 Stat. 592, 48 U. S. C. 116a).

This bill would increase to $10,500 per year the limit on fees which may be retained as compensation by the commissioners in Alaska. The present limit is $7,500.

There is now pending H. R. 10949 which would increase to $10,500 the limit on fees retained by the United States commissioners in the States. We understand that H. R. 10949 has been ordered to be favorably reported to the House by the Judiciary Committee. This particular legislation was recommended by the Judicial Council of the United States.

The Administrative Office of the United States Courts informs us that the commissioners in Alaska have all the jurisdiction of commissioners in the States and in addition have a wide range of duties and responsibilities which the latter do not have. It seems reasonable, therefore, that the commissioners in Alaska should be permitted to earn as much as the commissioners in the States.

You are advised that the Bureau of the Budget would have no objection to enactment of H. R. 11024.

Sincerely yours,

(Signed) ROBERT E. MERRIAM,
Assistant to the Director.

The Committee on Interior and Insular Affairs recommends enactment of H. R. 11024, as amended.

CHANGES IN EXISTING LAW

In compliance with clause (4) of rule XXIX of the Standing Rules of the Senate, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italics, existing law in which no change is proposed is shown in roman):

ACT OF MARCH 15, 1948 (62 STAT. 80), AS AMENDED BY THE ACT OF JULY 12, 1952 (66 STAT. 592, 48 U. S. C. 116a)

That, notwithstanding the provisions relating to fees earned by commissioners for the Territory of Alaska of section 11 of the Act of June 6, 1900, entitled "An Act making further provision for a civil government for Alaska, and for other purposes", as amended (U. S. C., 1952 edition, title 48, sec. 116), each such commissioner shall pay to the clerk of the proper division of the court only so much of the aggregate net fees earned during the calendar year by such commissioner as exceeds the sum of [$7,500] *$10,500*.

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Calendar No. 2686

84TH CONGRESS, 2d Session | SENATE | REPORT No. 2641

PROVIDING FOR DISPOSAL OF PUBLIC LANDS WITHIN HIGHWAY, TELEPHONE, AND PIPELINE WITHDRAWALS IN ALASKA, SUBJECT TO APPROPRIATE EASEMENTS

JULY 18 (legislative day, JULY 16), 1956.—Ordered to be printed

Mr. JACKSON, from the Committee on Interior and Insular Affairs, submitted the following

REPORT

[To accompany H. R. 4096]

The Committee on Interior and Insular Affairs, to whom was referred the bill (H. R. 4096) to provide for the disposal of public lands within highway, telephone, and pipeline withdrawals in Alaska, subject to appropriate easements, and for other purposes, having considered the same, report favorably thereon with an amendment and recommend that the bill do pass.

The committee held hearings on the measure, and committee action was unanimous.

PURPOSE OF THE BILL

The purpose of H. R. 4096 is to permit the disposal of lands restored from highway, telephone line, and pipeline withdrawals in Alaska, in such a manner as to recognize the equities of those landowners who have acquired lands abutting such withdrawals prior to their restoration.

The problem to be dealt with by this bill arises from the fact that in many cases existing withdrawals in Alaska for highways and similar purposes are excessive. As pointed out in the executive communication from the Department of the Interior some existing withdrawals provide as much as 600-foot rights-of-way for Alaskan highways. Congressional committees on more than one occasion have criticized these withdrawals as unreasonably large for the purpose for which the withdrawal was made. As a result, the Department of the Interior has embarked on a program of revoking such withdrawals and replacing them with easements of an appropriate width.

To take this action in the absence of legislation such as H. R. 4096 would, however, mean opening the land within present with-

drawals to entry by newcomers, oftentimes to the detriment of persons who have acquired title to and improved tracts of land abutting the existing withdrawals. To protect the equities of such persons, H. R. 4096 would authorize the Secretary of the Interior to give adjoining landowners or claimants a preferred right in the lands made available through restoration of the withdrawals. It would also permit the Secretary to protect from undesirable use the land actually needed for highway or similar purposes, through establishment of easements.

THE AMENDMENT

During the two hearings held on this bill, the committee considered at length the advisability of retaining Government title to the narrower rights-of-way to be established by the Department, rather than accepting the proposal of the Department that these rights-of-way be protected by easements. However, the Department pointed out that retention of fee title would require extensive surveying of many hundreds of miles of highway throughout the Territory of Alaska, with a consequent tremendous drain on the limited survey funds available for use in the Territory. The letter under date of April 24, 1956, from the Department of the Interior reprinted below, deals with this point. To clarify the authority of the Department to prevent, through retention of easements, construction or any other deleterious use within the area subject to easement, the committee has recommended that there be stricken from the bill the word "public" in section 3, on page 2, line 11, of the bill.

REPORTS OF EXECUTIVE AGENCIES

The executive communication from the Department of the Interior which is the basis for H. R. 4096, the supplementary letter from the Department of April 24, 1956, relating to the desirability of easements, and the favorable report from the Department of Agriculture are as follows:

UNITED STATES DEPARTMENT OF THE INTERIOR,
OFFICE OF THE SECRETARY,
Washington, D. C., February 8, 1955.

Hon. SAM RAYBURN,
Speaker of the House of Representatives,
Washington, D. C.

MY DEAR MR. SPEAKER: Enclosed is a draft of a proposed bill to provide for the disposal of public lands within highway, telephone, and pipeline withdrawals in Alaska, subject to appropriate easements, and for other purposes.

I suggest that the proposed bill be referred to the appropriate committee for consideration, and I recommend that it be enacted.

The construction of roads in Alaska has done much to stimulate the settlement and development of the Territory. To protect these roads, strips of public lands have been reserved for highway purposes under public land order 601 of August 10, 1949, as modified by public land order No. 757 of October 16, 1951. Public land order No. 386 of July 31, 1947, provided for a withdrawal of strips running generally parallel to the highway for a telephone line and an oil pipeline. In

many cases, the highways and lines cross legal subdivisions of public lands which have been patented to private persons and organizations.

Unfortunately, the areas withdrawn are often excessive. The withdrawals prevent full utilization of areas along the roads which could be entered by adjoining landowners or others without interfering with the use of the roads and without injury to protective parkway values. In Report No. 1460 (April 1, 1954), to accompany H. R. 8680, 83d Congress, at page 6, the House Committee on Appropriations severely criticized these withdrawals, stating:

"The committee has on several occasions called attention to the ridiculous land withdrawals to provide 600-foot rights-of-way for Alaskan highways. This makes commercial or private development practically impossible in areas where it should be occurring. The Department is expected to correct this condition without delay."

This Department has embarked on a general program to reduce the area of public lands in Alaska withdrawn from entry in order to encourage the development of the public lands. The Department has provided for road easements rather than withdraw large areas. Departmental order 2665 of October 16, 1951 (43 C. F. R. Cum. Supp. 74.29).

Legislative authority is needed to solve the problem of these large highway, telephone line, and pipeline withdrawals in Alaska. The proposed bill would authorize the Secretary to dispose of the lands, restored from such withdrawal, under any law specified by him or to sell such public lands at not less than their appraised value, giving any adjoining landowners or claimants a preferred right to acquire the lands subject to disposal. The proposed bill also provides for the Secretary to establish easements over the lands to protect the roads, parkways, and lines from use by the owner or anyone else in any way which would interfere with the purposes of the rights-of-way or destroy parkway values. The Secretary, therefore, could fully protect the rights-of-way under this proposal; at the same time he could protect the adjoining landowner against entries by others on the rights-of-way. Much public land, now undeveloped, would undoubtedly receive intense utilization if this bill became law.

I urge the enactment of this bill to help this Department eliminate unnecessary public land withdrawals in Alaska, to encourage full use of desirable areas along its roads, and to protect holders of existing equities in such areas.

The Bureau of the Budget has advised that there is no objection to the presentation of this proposed legislation to the Congress.

Sincerely yours,

ORME LEWIS,
Assistant Secretary of the Interior.

A BILL To provide for the disposal of public lands within highway, telephone, and pipeline withdrawals in Alaska, subject to appropriate easements, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That upon revocation of a withdrawal for highways, telephone lines, or pipelines, in Alaska, the lands involved shall be subject to disposal only under laws specified by the Secretary of the Interior, subject to easements as established by the Secretary. Notwithstanding any statutory limitation on the area which may be included in an unpatented claim or entry, the

Secretary may permit the amendment of the land description of a claim or entry on adjoining lands to include the restored lands.

SEC. 2. The Secretary may sell such restored lands for not less than their appraised value, giving an appropriate preference right to the holders of adjoining claims or entries, and to owners of adjoining private lands.

SEC. 3. Public lands in Alaska within an easement hereunder established by the Secretary of the Interior may not be utilized or occupied without the permission of the Secretary, or an officer or agency designated by him. If the lands crossed by an easement established under this Act are under the jurisdiction of a Federal department or agency other than the Department of the Interior, or of a State, Territory, or other Government subdivision or agency, such permission may be granted only with the consent of such department, agency, or other governmental unit.

SEC. 4. Nothing in this Act shall affect adversely any valid existing rights.

DEPARTMENT OF THE INTERIOR,
OFFICE OF THE SECRETARY,
Washington, D. C., April 24, 1956.

Hon. HENRY M. JACKSON,
United States Senate, Washington, D. C.

MY DEAR SENATOR JACKSON: This is to explain more fully to your subcommittee the position of this Department in respect to certain amendments tentatively considered for revision of H. R. 4096, a bill to provide for the disposal of public lands within highway, telephone, and pipeline withdrawals in Alaska, subject to appropriate easements, and for other purposes.

As we understand it, your subcommittee is concerned over the possible invasion by nonconforming uses of highway rights-of-way in the Territory. We are fully sympathetic with your concern and believe an amendment can be made to prevent such invasion and, at the same time, to preserve the objectives of H. R. 4096 as passed by the House of Representatives.

Apparently, the present proposal is to reduce the size of the existing withdrawals rather than to transform them into easements. Our difficulty with withdrawals is twofold. Any reduction in size of the withdrawal or relocation of the withdrawal through relocation of the highway often results in small tracts fronting patented lands or lands in unperfected entries. Under existing law, we have to grant veterans' preference when we open such lands, which could be very detrimental to persons who have developed their tracts believing that no one would be between them and the highway. One objective of H. R. 4096, therefore, was to give the Secretary of the Interior authority to dispose of these small tracts to owners of the adjoining lands in order that their interests may not be jeopardized by Government actions.

The second problem with withdrawals is that a withdrawal necessitates a survey of the right-of-way. Since no entry can be made of withdrawn lands, the right-of-way must be segregated by survey from other public lands to permit disposals. As you probably know, the boundaries of the present right-of-way withdrawals are for the most part still unsurveyed. If the withdrawals are continued, we will

have to continue to spend considerable time and money for surveys to segregate the rights-of-way in order to accommodate settlement. Of course, every time a right-of-way is relocated, a new survey problem arises. These segregation surveys would be obviated if the rights-of-way withdrawals were transformed to easements. Another objective of H. R. 4096 was to provide for easements upon the revocation of the withdrawals.

I believe that the rights-of-way can be protected from invasion simply by striking out the word "public" in section 3 of H. R. 4096 as passed by the House. This amendment would give the Secretary or his delegate the opportunity to control use of the lands within easements established by the bill. It would also give him discretion to control such use in the best interests of the Territory.

I appreciate this opportunity to express our views.

Sincerely yours,

WESLEY A. D'EWART,
Assistant Secretary of the Interior.

DEPARTMENT OF AGRICULTURE,
Washington, April 7, 1955.

Hon. CLAIR ENGLE,
Chairman, Committee on Interior and Insular Affairs,
House of Representatives.

DEAR CONGRESSMAN ENGLE: H. R. 4096, a bill to provide for the disposal of public lands within highway, telephone, and pipeline withdrawals in Alaska, subject to appropriate easements, and for other purposes affects national forest land administered by this Department and we therefore wish to volunteer this report for your consideration.

We favor enactment of H. R. 4096 if amended as recommended below.

We agree with the desirability of revoking public land highway, telephone line, and pipeline withdrawals in Alaska of excessive width and releasing the unneeded area for sale to private individuals with the public needs protected by appropriate easement. The bill would permit the Secretary of the Interior to revoke highway, telephone, and pipeline withdrawals in Alaska covering Federal land under the administration of other departments and agencies and to sell the released land without the consent of such administering department or agency. Thus, Interior could sell national forest land in Alaska without the consent of this Department. It is felt this is contrary to good administrative procedure and should be done only with the consent of the administering agency or department. This could be provided for by adding at the end of section 2 (line 6, p. 2):

"If such lands are under the jurisdiction of a Federal department or agency other than the Department of the Interior, any sale thereof shall be made only with the consent of such department or agency."

The Bureau of the Budget advises that from the standpoint of the program of the President there is no objection to the submission of this report.

Sincerely yours,

TRUE D. MORSE, *Acting Secretary.*

90005°—57 S. Rept., 84–2, vol. 5——24

Calendar No. 2687

84TH CONGRESS, 2d Session | SENATE | REPORT No. 2642

ADJUSTING THE RATES OF COMPENSATION OF THE HEADS OF EXECUTIVE DEPARTMENTS AND OF CERTAIN OTHER OFFICIALS OF THE FEDERAL GOVERNMENT AND FOR OTHER PURPOSES

JULY 18 (legislative day, JULY 16), 1956.—Ordered to be printed

Mr. JOHNSTON of South Carolina, from the Committee on Post Office and Civil Service, submitted the following

REPORT

[To accompany H. R. 7619]

The Committee on Post Office and Civil Service, to whom was referred the bill (H. R. 7619) to adjust the rates of compensation of the heads of the executive departments and of certain other officials of the Federal Government, and for other purposes, report favorably thereon with an amendment, and recommend that the bill as amended, do pass.

AMENDMENT

The committee amendment strikes out all of the bill after the enacting clause and substitutes therefor a new bill which appears in the reported bill in italic type.

Title I of the bill as reported establishes new rates of basic compensation for heads of executive departments and other Federal officials.

Title II of the bill as reported relates to the organization of the Civil Service Commission.

Title III of the bill as reported relates to the establishment and classification of a variety of positions in the executive departments and contains a section relating to the affairs of the Post Office Department.

Title IV of the bill as reported relates to civil-service retirement.

Title V authorizes the establishment of additional scientific and professional positions in the Department of Defense, National Security Agency, National Advisory Committee for Aeronautics, Department of Interior and the Department of Commerce.

Explanation of Bill as Reported

TITLE I—BASIC COMPENSATION FOR HEADS OF EXECUTIVE DEPARTMENTS AND OTHER FEDERAL OFFICIALS

Section 101 provides that this title may be cited as "Federal Executive Pay Act of 1956".

Section 102 establishes the rate of $25,000 for Cabinet positions.

Section 103 (a) establishes the rate of $22,500 for a small number of positions, the incumbents of which participate in Cabinet meetings or have other unusual responsibility.

Section 103 (b) establishes the rate of $22,000 for each of the three Secretaries of the armed services.

Section 104 establishes the rate of $21,000 for under secretaries and positions of comparable responsibility.

Section 105 establishes the rate of $20,500 for the chairman of boards and commissions and positions of comparable responsibility.

Section 106 (a) establishes the rate of $20,000 for assistant secretaries, members of boards and commissions and other positions of comparable responsibility.

Section 106 (b) establishes the rate of $19,000 for two groups of commissioners.

Section 107 establishes the rate of $17,500 for certain bureau heads, and so forth.

Section 108 provides that, unless otherwise specifically provided, the chairmen or heads of each independent board or commission shall receive $500 more than the rate for the other members of such boards or commissions.

Section 109 establishes the rate of compensation of immediate staff assistants in the White House as follows: 2 at not to exceed $22,500; 3 at not to exceed $21,000; 7 at not to exceed $20,000; and 3 at not to exceed $17,500. The latter 3 positions were added by the committee to permit the President to adjust the salaries of 2 deputy assistants to the Deputy Assistant to the President and of 1 secretary to the Cabinet.

Section 110 raises the ceiling on 6 top positions in the International Cooperation Administration to $19,000.

Section 111 raises the ceiling on salaries which may be paid to representatives (5) and alternates (5) to UNESCO to not to exceed $15,000.

Section 112 raises the ceiling on the salaries of certain top positions established under the Mutual Security Act of 1954.

Section 113 adjusts the rates of pay of grades GS–17 and 18 of the Classification Act.

Section 114 adjusts the rates of pay of the three highest grades of the postal field service schedule contained in Public Law 68, 84th Congress.

Section 115 raises the salaries of the Chief Medical Director, the Deputy Chief Medical Director, and eight assistant chief medical directors in the Department of Medicine and Surgery, Veterans' Administration, from $16,800, $15,800 and $14,800 to $17,800, $16,800 and $15,800, respectively.

Section 116 amends several acts of Congress in which, since 1947, Congress has authorized a salary range of from $10,000 to $15,000

for a limited number of professional and scientific positions in research and development activities of specified agencies. The Civil Service Commission must approve in advance the salary rate to be established for each position (except those in Agriculture) and any subsequent changes, within the limits specified by law. The new salary range is $12,500 to $19,000. The section also repeals recently enacted law under which the ceiling on certain of these positions was fixed at $20,000.

Section 117 provides that any employees referred to under section 116 who are being paid less than $12,500 shall be increased to such rate.

Section 118 increases the compensation of the positions referred to in section 116 that are in the Department of Agriculture to correspond with the increases accorded similar positions in other agencies.

Section 119 provides for an adjustment in compensation of one staff position of each Senate committee.

Section 120 raises the compensation of the Legislative Counsel of the Senate.

Section 121 provides that the changes shall take effect at the beginning of the first pay period commencing after June 30, 1956.

TITLE II—RELATING TO ORGANIZATION OF CIVIL SERVICE COMMISSION

Section 201 amends the first section of the act entitled "An act to regulate and improve the civil service of the United States," approved January 16, 1883, as amended (5 U. S. C., sec. 632) to provide:

(1) That the term of office of each Civil Service Commissioner shall be 6 years except that (*a*) the terms of the present three Commissioners shall be 2, 4, and 6 years, respectively, and (*b*) any Commissioner appointed to fill a vacancy shall be appointed for the remainder of the term, and (*c*) upon the expiration of his term, a Commissioner may continue to serve until his successor is appointed and qualified.

(2) That the President shall, from time to time, designate a Chairman and Vice Chairman of the Commission who shall, in order, be responsible for administration of the functions of the Civil Service Commission. In the absence of both the Chairman and the Vice Chairman, the third Commissioner becomes responsible, and in the absence of all three Commissioners, the Executive Director is responsible except that at no time does the Executive Director sit or act as a member of the Commission.

Section 202 provides that title II shall take effect on the date of enactment.

TITLE III—MISCELLANEOUS PROVISIONS

Section 301 provides for the appointment by the President, by and with the advice and consent of the Senate, of a General Counsel in the Post Office Department, Department of Agriculture, Department of Health, Education, and Welfare, Department of the Navy, Department of the Army, and Department of the Air Force.

It is provided, further, that existing Offices of General Counsel in these Departments and that of Solicitor in the Post Office Department are to be abolished upon appointment and qualification of the general counsels provided for under this section.

Section 302 authorizes the allocation of four positions in the Administrative Office of the United States Courts to grade 18 of the general schedule of the Classification Act.

Section 303 (a) allocates the positions of seven directors of commodity offices, Commodity Stabilization Service, Department of Agriculture, to grade 16 of the General Schedule of the Classification Act.

Section 303 (b) authorizes the allocation of three positions in the Agricultural Research Service, Department of Agriculture, to grade 18 of the general schedule of the Classification Act.

Section 304 establishes the new position of Federal Highway Administrator as the head of the Bureau of Public Roads in the Department of Commerce. Appointment to the position is by the President by and with the advice and consent to the Senate. The salary of the position is to be at the rate prescribed by law for assistant secretaries of executive departments.

The section provides also for a Commissioner of Public Roads who shall be appointed by the Secretary of Commerce, who shall perform such duties as may be prescribed by the Federal Highway Administrator.

Section 305 provides that the difference between fourth-class mail income and estimated fourth-class mail costs must be more than 10 percent before the Postmaster General is required to request changes in such rates before the Interstate Commerce Commission.

TITLE IV—CIVIL SERVICE RETIREMENT

Section 401 amends the Civil Service Retirement Act in its entirety. The basic changes made in each section of the Retirement Act as rewritten are as follows:

SECTION 1. DEFINITIONS

Various terms used throughout the existing law are accompanied either by definitions or by reference to a section which defines them. In other instances, regulations, precedent, and administrative rulings are relied upon for the meaning of the terms used.

Present meanings of terms are changed as follows:

Section 1 (b)

1. "Member [of Congress]" presently includes only a Senator, Representatives in Congress, Delegate from a Territory, and the Resident Commissioner from Puerto Rico. The bill includes the Vice President within this definition, so as to extend to that officer for the first time the option of participating in the retirement system on the same basis as a Member of Congress.

Section 1 (d)

2. "Basic salary" is defined under present law to permit the use of military pay in the computation of retirement benefits. The bill would bar the use of military pay for this purpose in the case of those hereafter entering the military service. This change is proposed because it is deemed inappropriate to permit the rate of annuity upon retirement from a civilian position to be based upon pay from a source other than civilian employment.

(NOTE.—This change in no way relates to or changes the present law and practice of crediting military service for retirement purposes.)

Section 1 (e)

3. "Average salary" for computing the annuities of all officers and employees except Members of Congress is presently the annual average of basic salary received during any 5 consecutive years of allowable service the individual may choose. For Members of Congress it presently consists of the annual average of all salary received for service being credited which was performed on or after August 3, 1946, up to date of separation. The bill, by definition of this term, requires that the annuities of all officers and employees, including Members of Congress, be based on an annual average of basic salary received during the highest 5 consecutive years of allowable service. This deletes the option to choose any other 5 consecutive year service period as the average salary base and, in effect, repeals the existing average salary concept for annuities of Members of Congress, established originally in the Legislative Reorganization Act of 1946.

Section 1 (j)

4. "Child" is defined under present law to allow automatic survivor annuity benefits to certain unmarried surviving children who are over age 18, if incapable of self-support by reason of physical or mental disability. The bill continues the present law in this regard, but adds the further condition that such child's disabling condition must have been incurred prior to age 18, in order to be eligible for the annuity.

Section 1 (l)

5. Under present law, lump-sum payments include retirement deductions, sums deposited by an employee or Member and interest on such deductions and deposits to the date of separation or to the date of entitlement to a deferred annuity or date of death, whichever is earlier except that no interest accrues if the service covered thereby aggregates 1 year or less. The bill defines "lump-sum credit" to end the practice of crediting interest after December 31, 1956, on the theory that to provide the protection afforded by the act as amended by the bill, and at the same time allow interest on deposits made for the purpose of obtaining protection amounts to dual benefits unwarranted by the circumstances. The bill makes no change in the crediting of interest in the case of persons separated with less than 5 years of service.

SECTION 2. COVERAGE

Section 2 (b)

Existing law excludes from coverage "elective officers in the executive branch of the Government." The bill, to avoid a conflict of provisions in its extension of retirement coverage and benefits to the Vice President, makes this specific exclusion applicable simply to "the President." Judges of the United States (as defined in sec. 451, title 28, U. S. C.) are not now specifically excluded. Contrary to the view of the Commission, the judicial conference in March 1950 expressed the opinion that these judges are not subject to the act. The bill clarifies their status by specifically excluding them.

Section 2 (e)

Under present law the President has authority to exclude executive branch employees whose tenure is intermittent or of uncertain dura-

tion. This authority has been delegated to the Civil Service Commission by Executive Order 10530. The bill confers this authority directly upon the Civil Service Commission, adding similar authority as regards District of Columbia employees where the District of Columbia Commissioners so recommend, but in all cases subject to the restriction that no employee shall be excluded from coverage who has had more than 12 months' continuous service.

Section 2 (g)

Provides for coverage under the Retirement Act of United States commissioners who receive annual compensation of at least $3,000 for a period of at least 3 consecutive years.

SECTION 3. CREDITABLE SERVICE

Section 3 (a)

At present, all periods of separation from the service are excluded from credit for retirement purposes. The bill would exclude only those periods of separation which exceed 3 days. Most of the breaks in service of 1 or 2 days are the result of misunderstanding or clerical error where a transfer takes place over a weekend. This change is made primarily to improve and simplify the administration of the act.

Section 3 (g)

Existing law requires at least 1 year of creditable civilian service subject to the act within the 2-year period preceding separation before any title to annuity may exist based upon the separation; failure to meet this requirement does not take away any annuity right which may have existed based upon a previous separation. The bill continues this requirement in effect on a modified basis; it would no longer apply in case of separation by reason of death or on account of disability.

SECTION 4. DEDUCTIONS AND DEPOSITS

Section 4 (a)

Effective from the first day of the first pay period beginning after December 31, 1956, the bill raises the rate of retirement deductions for employees covered by the act from the present 6 to 7 percent of basic salary. The bill also newly requires that effective from the first day of the first pay period beginning after June 30, 1957, each department or agency shall contribute to the retirement fund amounts equal to the deductions currently withheld from the salaries of its employees, including Members of Congress, subject to the act. Special provision is made that amounts contributed by the Post Office Department under this subsection are not to be considered as costs of providing postal service, for the purpose of establishing postage rates. The contribution of Members is increased from 6 to 8 percent.

Section 4 (d)

Under present law when an employee in a position subject to another retirement system transfers to a position subject to the Civil Service Retirement Act, he receives credit for time in the first position whether or not he makes an appropriate deposit to the retirement fund for such period of time.

The bill requires each Member or employee who had received a refund of retirement deductions under another retirement system to redeposit such refund with interest before any credit would be allowed

under the Retirement Act for service covered by the refund. Adoption of this provision will prevent employees from receiving windfalls under certain conditions.

Section 4 (e)

Under existing law no interest is required covering periods of separation from the service in the case of deposits made by employees to cover periods for which no deductions were made or for which a refund was received. The bill provides that interest must be paid for periods of separation from the service as well as for periods of service. Interest would thus be charged for all periods during which the employee enjoyed the use of the money. The retirement fund would be earning interest on the money if it had been deposited into the fund.

SECTION 5. MANDATORY SEPARATION

Section 5 makes no changes in existing law.

SECTION 6. IMMEDIATE RETIREMENT

Section 6 (c)

Under existing provisions relating to the retirement of employees whose duties are primarily the investigation, apprehension, or detention of persons suspected or convicted of offenses against the criminal laws of the United States, the Civil Service Commission is required to give full consideration to the degree of hazard to which the employee is subjected in the performance of his duties, rather than the general duties of the class of the position held by the employee. Under the bill the head of a department or agency would likewise be required to give consideration to these factors in recommending retirement of an employee under these provisions.

Section 6 (d)

Under present law a void exists with respect to employees with 20 or more years but less than 25 years of service who are involuntarily separated through no fault of their own. Employees who have over 20 years of service cannot withdraw their deposits from the retirement fund and because they have less than 25 years of service, they do not have entitlement to an immediate annuity. The bill proposes to alleviate this situation by providing an immediate annuity on a reduced basis to employees involuntarily separated who have attained the age of 50 years and have rendered 20 years of service.

SECTION 7. DISABILITY RETIREMENT

Section 7 (a)

Under present law an employee who completes 5 years of civilian service or a Member with 5 years' Member service may be retired due to disability. However, under existing law an employee cannot be retired due to disability if he is eligible for immediate retirement by reason of age and length of service. Thus, a situation exists under which departments may retire employees who become disabled before reaching retirement age but cannot retire disabled employees who have attained retirement age. The bill permits disability retirement in any case where the disabled employee or Member meets the minimum service requirements for annuity.

Section 7 (b)

In the interest of administrative simplicity, the bill makes some technical changes in regard to the filing of applications for retirements due to disability.

Section 7 (d)

Under present law the annuity of a disability annuitant who recovers before reaching age 60 is discontinued. The bill provides that if the earning capacity of such an annuitant is restored to a level fairly comparable to the current rate of pay for the position held immediately prior to retirement, his annuity shall be discontinued even though he has not attained complete recovery from a medical viewpoint.

Section 7 (e)

Under existing law if a disability annuitant recovers and is unable to obtain reemployment or for any other reason does not return to service under the act, he is considered as having been separated from service as of the date of his retirement for disability and entitled only to a deferred annuity at age 62. The bill modifies this provision so that a disability annuitant who recovers or is restored to earning capacity before he attains age 60 will be considered (except for service credit) as having been involuntarily separated from the service upon termination of the disability annuity. This change would permit the granting of immediate annuity if the employee is otherwise entitled.

SECTION 8. DEFERRED RETIREMENT

Section 8 (a)

Under existing law an employee subject to the Retirement Act who transfers to a position not within the purview of the act retains no annuity rights; he has title to a refund only, regardless of his length of service. The bill extends to any such transferee with 5 or more years of civilian service the right to a deferred annuity at age 62 if he does not draw a refund.

Section 8 (b)

A Member of Congress now has title to deferred annuity at age 62 if separated with at least 6 but less than 10 years of Member service; a Member separated with 10 or more years of Member service may receive a reduced annuity when he reaches age 60. A Member transferred to a position not within the purview of the Retirement Act has title to a refund only, regardless of length of service.

The bill provides that a Member separated from the service after completing 5 years of service may be paid a deferred annuity beginning at age 62.

SECTION 9. COMPUTATION OF ANNUITY

Section 9 (a)

Under present law the rate of annuity for employees generally is computed on the basis of 1½ percent of average basic salary times the number of years of service, or on the basis of 1 percent plus $25, multiplied by the number of years of service, whichever is to the advantage of the employee. The 1 percent plus $25 formula is favorable to employees whose average basic salary is not in excess of $5,000 while the 1½ percent formula is used where the average salary is in excess of $5,000. In either case, the total annuity of an employee,

irrespective of his length of service, may not exceed 80 percent of his average basic salary.

The bill retains the present formula for employees generally in respect to the first 5 years of service, and raises the computation base for the years of service in excess of 5. Under the bill the annuity is (*a*) 1½ percent, or $25 plus 1 percent, of the average salary for the highest 5 consecutive years of all service multiplied by not more than 5 years of service, and (*b*) 2 percent, or $25 plus 1 percent, of the highest 5-year average salary multiplied by all years of creditable service in excess of 5. The maximum on basic annuity is still 80 percent of the highest 5-year average salary.

The present law contains no minimum for a total disability annuity. The bill provides that the annuity of any employee retired due to total disability after meeting the 5-year eligibility requirement be at least (1) 40 percent of his average salary, or (2) the amount obtained after increasing his total service by the period elapsing between the date of his separation due to the disability and the date he attains the age of 60 years, whichever is the lesser. However, it is not intended that the provision shall serve to increase the benefits of the annuitant's survivors. Section 9 (b) extends these minimum disability benefits to congressional employees and section 9 (c) extends them to Members.

Section 9 (b)

The bill makes no changes in the annuity computation formula for congressional employees, except that the 1½ percent figure applicable to noncongressional service would be changed to 2 percent for all such service in excess of 5 years, in line with the change discussed under subsection (a) applicable to employees generally.

Section 9 (c)

The annuity computation formula for a Member of Congress would remain as at present except that (*a*) the 1½ percent figure applicable to noncongressional service performed prior to a separation from Member service would be changed to 2 percent for all years of such service in excess of 5, in line with the change discussed under subsections (a) and (b) for other officers and employees, and (*b*) the maximum basic annuity for a Member would be changed from 75 percent of final salary as a Member, to 80 percent.

Section 9 (d)

Under existing law an employee retiring prior to attainment of age 60 is required to take a reduction of one-fourth of 1 percent in his earned annuity for each full month he is under age 60 at the date of his separation.

The bill would lower the reduction formula to one-twelfth of 1 percent per month for each month up to 60 and one-sixth of 1 percent per month for each month in excess of 60 the employee is under the age of 60 at the time of his retirement.

Section 9 (f)

Under existing law an employee retiring on an immediate annuity with at least 15 years of service may elect a joint and survivorship annuity in favor of the surviving wife or husband. The bill changes the service prerequisite to a joint and survivorship election by an employee from 15 years to 5.

At the present time only an employee retiring on immediate annuity can elect a joint and survivorship annuity. The bill extends this right to employees receiving deferred annuities. It was felt that since employees entitled to deferred annuities contributed to the retirement fund at the same rate as other annuitants, and since they receive annuities computed in precisely the same manner as other annuitants, they should be entitled to provide the same protection to their survivors as other annuitants.

Under present law when an annuitant makes a joint and survivorship election he is required to take a reduction of 5 percent on the first $1,500 of his annuity and 10 percent on all in excess thereof. The bill reduces the reduction on the first $2,400 of the annuity to 2½ percent but leaves the 10-percent penalty on any amount in excess thereof.

The bill also permits an employee at the time of his retirement to designate the portion of his earned annuity upon the basis of which his survivor's annuity is to be computed.

Section 9 (g)

Under existing law the election of a joint and survivorship annuity by an unmarried annuitant carries with it a reduction of 10 percent plus 5 percent for each full 5 years the survivor is younger than the retiring employee except that the reduction for the 5-year span between 25 and 30 years is 10 percent. The bill changes this reduction for a joint and survivorship annuity to 10 percent plus 5 percent for each full 5 years the survivor is younger than the retiring employee with a maximum reduction of 40 percent.

Section 9 (i)

The bill retains the existing special annuity formula of 2 percent of high 5-year average salary times years of service for early optional retirement of investigative employees, but changes the maximum annuity provision under it from a limitation of 30 years on allowable service, to the 80 percent of high 5-year average salary maximum applicable to employees generally.

SECTION 10. SURVIVOR ANNUITIES

Section 10 (a) (1)

Under existing law, upon the death of any annuitant who elected the joint and survivorship annuity the widow or widower designated at the time of the annuitant's retirement is entitled to an annuity equal to one-half of the annuitant's earned annuity beginning on the first day of the month following the survivor's attainment of age 50, or on the first day of the month in which the annuitant's death occurs if the survivor is then 50 years of age or over, and is payable until the survivor remarries or dies.

Also, under existing law, upon the death of any male annuitant who was eligible to elect a joint and survivorship annuity and who is survived by a widow and children, an automatic immediate annuity is paid to the widow—regardless of whether or not the annuitant made such an election. This automatic annuity—to widows with dependent children—terminates when the widow reaches age 50, remarries, or dies, whichever occurs first. If the annuity is terminated by virtue of the widow having reached age 50, she receives no further

benefits unless the annuitant elected a joint and survivorship annuity at the time of his retirement.

The bill provides an automatic immediate survivor's annuity to the surviving wife or husband of every employee or Member of Congress who dies after having retired under any provision of the bill, if such surviving spouse was married to the annuitant at time of his or her retirement. The survivor's annuity is one-half of so much of the deceased annuitant's earned annuity as was designated by the annuitant for such purpose at the time of his retirement.

Section 10 (a) (2)

This subsection establishes the first of the month in which annuitant dies as the commencing date of the immediate survivor's annuity. It continues in effect the provision that the annuity shall terminate upon the survivor's death or remarriage.

Section 10 (c)

Under existing law, an automatic annuity, equal to 50 percent of the employee's or Member's earned annuity, is paid to the widow of an employee, or to the widow or widower of a Member, who dies after 5 years of civilian service.

The bill continues without change the automatic annuity to widows of both employees and Members and extends similar benefits to widowers of employees but requires that in either the case of an employee or Member the surviving widower must be a "dependent widower" to be eligible for such annuity. Annuities to spouses under this provision terminate upon death or remarriage of the widow or widower, or upon the widower's becoming capable of self-support.

Section 10 (d)

Automatic annuities are also paid under existing law to surviving dependent children upon the death of (1) an employee or Member with 5 or more years of service, (2) an employee annuitant retired under any provision except a deferred annuity, or (3) a Member retired for any reason. Except in the case of a female Member, no automatic annuity is paid to children of a female employee if a widower survives. If both an entitled spouse and child or children survive, each child is entitled to an annuity which is (1) 25 percent of the annuitant's regular earned annuity, (2) $900 divided by the number of surviving children, or (3) $360, whichever is least. If no entitled spouse survives, the annuity for each child is equal to (1) 50 percent of the annuitant's earned annuity, (2) $1,200 divided by the number of surviving children, or (3) $480, whichever is least. A child's annuity begins on the first day of the month after the employee or Member (or annuitant) dies and terminates upon the child's death, marriage, or attainment of age 18 (unless the child is incapable of self-support, in which event his becoming capable of self-support terminates the benefit). Upon the death of the widow or entitled widower, or the termination of annuity to a child, the annuities of the remaining child (or children) are recomputed.

The bill provides, in addition to benefits under existing law, for the payment of children's annuities where there is a surviving widower, provided such widower was dependent upon the employee or annuitant for his support.

Children's benefits are raised by the bill. Where a widow or dependent widower survives, each child receives an annuity equal to the

smallest of (1) 40 percent of the employee's or Member's average salary divided by the number of children, (2) $600, or (3) $1,800 divided by the number of children. Where the employee or Member of Congress leaves no widow, or widower, each child's annuity is equal to the smallest of (1) 50 percent of the employee's or Member's average salary divided by the number of children, (2) $720, or (3) $2,160 divided by the number of children.

SECTION 11. LUMP-SUM BENEFITS

Section 11 (a)

The bill authorizes refund of the lump-sum credit to any employee separated with less than 20 years of civilian service, whereas present law authorizes such refund of the retirement account only provided the employee is not eligible for optional retirement (age 62 or over with 15 or more years of service) at time of separation.

SECTION 12. ADDITIONAL ANNUITIES

Members of Congress now have the privilege of making voluntary contributions to purchase additional annuity. However, the amount of such additional annuity in each case is determined by applying an actuarial factor based upon the retiring Member's age and sex.

The bill grants Members of Congress the privilege of making voluntary contributions to purchase additional annuity at the rate of $7 per each $100 so credited, with the $7 increased by 20 cents for each full year the Member is over age 55 at date of retirement, thereby placing them in the same position in this respect as employees generally. No other change in existing law is made by section 12.

SECTION 13. REEMPLOYMENT OF ANNUITANTS

Section 13 (a)

Present law provides that no annuitant may be reappointed to any Government position after attaining age 60 unless the appointing authority determines that he has special qualifications.

Section 13 (a) provides that annuitants may be reemployed in any position for which they may be qualified and serve at the will of the appointing officer.

Section 13 (b)

The bill provides that if an annuitant is reemployed in an appointive or elective position subject to the Retirement Act, annuity payments shall be discontinued during such employment and deductions for the retirement fund withheld from his salary. It provides further that if the former annuitant performs actual full-time service for a period of at least 1 year, his right to future annuities shall be redetermined. If the annuitant does not perform actual full-time service for at least a year his annuity payments are resumed without change and the deductions made from his salary for the retirement fund during such period are refunded to him.

Section 13 (c)

Under present law if a retired Member is reemployed other than as a Member, his annuity is continued in addition to his salary. How-

ever, if he resumes service as a Member, his annuity is suspended. Upon subsequent retirement, his annuity is resumed in the amount or, if he contributed to the retirement fund during the additional service, the additional service is considered in recomputing his annuity rights.

The bill suspends a former member's annuity during any period of reemployment in a position subject to the act.

SECTION 14. PAYMENT OF BENEFITS

The bill makes no change in this section, which relates to the mechanics of paying benefits under the act.

SECTION 15. EXEMPTION FROM LEGAL PROCESSES

Section 15 (b)

Under present law the Commission in its discretion may waive recovery of any overpayment of annuity when the recipient acted in good faith.

The bill retains the provision and extends the right of the Commission to waive recovery from a recipient to lump-sum payments. Recovery of lump sums can be just as inequitable as recovery of annuity payments.

SECTION 16. ADMINISTRATION

The bill makes no change in the existing general administrative provisions.

SECTION 17. CIVIL SERVICE RETIREMENT AND DISABILITY FUND

Section 17 (d)

Under present law currently available portions of the retirement fund as are not immediately required for payments from the fund are invested by the Secretary of the Treasury in securities of the United States. The law does not fix the interest rate for such securities. Most of the fund is invested at an interest rate of 3 percent.

The bill continues the authority of the Secretary of the Treasury to invest in securities of the United States, and provides for the issuance for purchase by the fund of public debt obligations bearing interest at the average rate (rounded to the nearest ⅛ of 1 percent) borne by other public debt obligations having maturities at least 5 years after date of issue. Such obligations would be issued only if the Secretary found that purchase in the market of other Government obligations is not in the public interest.

SECTION 18. SHORT TITLE

Section 18 provides that the amended act may be cited as the "Civil Service Retirement Act."

Section 402 of the bill abolishes the special retirement system for civilian teachers at the Naval Academy and covers them under the Civil Service Retirement Act.

Section 403 of the bill carries out the purpose of S. 59 passed by the Senate July 19, 1955. The effect of section 3 is to make effective as

of April 1, 1948, certain benefits effective September 30, 1949. The Civil Service Retirement Act, as amended effective April 1, 1948, authorizes a husband, at the time of his retirement, to elect a survivorship annuity payable to his widow equal to 50 percent of the annuity otherwise payable to him. To obtain the benefit of this provision, the husband was required to take a reduction of 10 percent in the annuity payable to him. The act of September 30, 1949, reduced the reduction on the first $1,500 of the husband's annuity from 10 to 5 percent for those who retired after such date.

Section 404 of the bill provides that the rights of persons separated prior to the effective date of this act shall continue in the same manner and to the same extent as if the act had not been enacted.

Section 405 of the bill provides that the current Vice President may elect retirement coverage on January 1, 1957, or within 15 days thereafter. In case of such election, his past service as Vice President shall be considered as covered service for the purpose of fulfilling the annuity title requirement of at least 1 year of covered service within the 2-year period preceding separation.

Section 406 of the bill declares it is the policy of Congress to correspondingly adjust the annuities of retired employees in the future, whenever any general adjustment is made in the salaries of Government employees. This would not operate to automatically raise or lower annuities with salary changes, but Congress must act specifically in each instance.

Section 407 of the bill amends the act of September 1, 1954 (Public Law 769, 83d Cong.), which prohibits payment of annuity or retired pay based on the service of individuals convicted of certain enumerated crimes against the United States or found responsible for certain other improper acts or omissions. The amendment extends this act to prohibit payment of annuity or retired pay in any case where the individual has been indicted for any of the enumerated Federal crimes and willfully, with knowledge of the indictment, remains outside the United States, its Territories and possessions, in excess of a year. The prohibition on benefit payments would be effective at the end of the 1-year period and would remain in force until entry of a nolle prosequi to the entire indictment, or until the individual returns and thereafter the indictment is dismissed or the accused is found not guilty under it.

Section 408 of the bill establishes January 1, 1957, as the effective date of the act.

Section 409 provides that the bill may be cited by short title as the "Civil Service Retirement Act Amendments of 1956."

TITLE V—ADDITIONAL SCIENTIFIC POSITIONS

Section 501 amends subsections (a) and (b) of the first section of Public Law 313, 80th Congress, and adds two additional subsections, so as to—

1. Increase from 45 to 275 the number of scientific positions available to the Department of Defense; and provide 50 such positions for the National Security Agency. Authority for establishing and fixing the compensation for all these positions (subject to approval by the Civil Service Commission) would be vested in the Secretary of Defense, contrary to present law which vests

such authority in the Secretary of Defense for 6 positions, and in the Secretary of each military department for 13 positions.

2. Increase from 10 to 60 the number of scientific and professional positions available to the National Advisory Committee for Aeronautics.

3. Provide 10 scientific and professional positions for the Department of the Interior.

4. Provide 35 scientific and professional positions for the Department of Commerce.

5. Protect the incumbents and the compensation for positions established previously by the Secretaries of Army, Navy, and Air Force, until action is taken by the Secretary of Defense under the new authority.

6. Require annual reports to the Congress from agencies establishing scientific and professional positions, showing—

(*a*) Number of positions established or in existence during the year;

(*b*) Information with respect to the incumbents of these positions and their duties; and

(*c*) Such other information as deemed appropriate, or requested by Congress.

Changes in Existing Law

Compliance with subsection 4 of rule XXIX of the Standing Rules of the Senate has been omitted inasmuch as it is necessary, in the opinion of the committee, to dispense with the requirements of such subsection to expedite the business of the Senate.

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90005°—57 S. Rept., 84-2, vol. 5——25